



Friday, 19 June 2015

Weekly Construction Law Review A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Chong & Neale v CC Containers Pty Ltd (VSCA) - conspiracy to injure corporations - fraud - appeal allowed in part in relation to award of interest - appeal otherwise dismissed

Chief Executive, Department of Transport and Main Roads v Cidneo Pty Ltd (QCA) - real property - compulsory acquisition of land - post resumption-agreement - assessment of compensation payable - appeal allowed

Monadelphous Engineering Pty Ltd & Muhibbah Construction Pty Ltd t/as Monadelphous Muhibbah Marine v Wiggins Island Coal Export Terminal Pty Ltd (QSC) - construction contract - bank guarantees - terms of contract not qualified by *Queensland Building and Construction Commission Act 1991* (Qld) - claim dismissed

Summaries With Link (Five Minute Read)

Chong & Neale v CC Containers Pty Ltd [2015] VSCA 137

Court of Appeal of Victoria

Redlich, Santamaria & Kyrou JJA

Conspiracy to injure corporations - fraud - company (CCC) owned and controlled by appellant (Chong) and son stored and repaired shipping containers owned by respondent shipping company - appellant (Neale) was director of shipping company - appellants found to have conspired to injure respondents by fraud perpetrated in respect of repair by CCC of shipping containers of shipping company - appellants also found to have engaged in fraudulent misrepresentation and misleading and deceptive conduct - Neale found to have breached his fiduciary and statutory duties as director of shipping company and CCC and to have received secret commissions as result of his participation in repair fraud and involvement in sale of CCC's business - held: grounds of appeal failed - Chong's appeal allowed in part in relation to amount of interest awarded - Neale's appeal dismissed.

[Chong](#)

[From Benchmark Thursday, 11 June 2015]

Chief Executive, Department of Transport and Main Roads v Cidneo Pty Ltd [2015] QCA 96

Court of Appeal of Queensland

Carmody CJ, Fraser JA & Dalton J

Real property - compulsory acquisition of land - applicant resumed part of respondent's land - application for leave to appeal from decision of Land Appeal Court concerning amount of compensation payable - whether amount of contribution to be taken into account in assessment under s20 *Acquisition of Land Act 1967* should be fixed as estimate of amount of required contribution which parties to hypothetical sale would have anticipated as at date of resumption or by reference to much smaller amount of contribution actually required under agreement made after resumption - held: only one ground of appeal in notice of appeal raised appellable question - Land Court should have considered post-resumption agreement regarding amount of transport infrastructure contribution in calculating quantum of compensation payable to respondent - appeal allowed.

[ChiefExecutive](#)

[From Benchmark Friday, 12 June 2015]

Monadelphous Engineering Pty Ltd & Muhibbah Construction Pty Ltd t/as Monadelphous Muhibbah Marine v Wiggins Island Coal Export Terminal Pty Ltd [2015] QSC 160

Supreme Court of Queensland

P McMurdo J

Contract - plaintiffs' firm (MMM) contracted to perform construction work under contracts with defendant - pursuant to contract MMM provided four bank guarantees as security for its performance - defendant called on all four guarantees and received payment from guarantors in



full - defendant claimed damages from MMM on account of MMM's delay in performance - MMM agreed defendant entitled to call upon guarantees but claimed terms of contract necessarily qualified by *Queensland Building and Construction Commission Act 1991* - held: MMM failed to establish contract in original or varied terms was for building work as defined by Act - no need to consider defendant's alternative argument that only original terms of contract to be considered - contract was not a building contract as defined for the Act - ss67J & 67A did not apply - MMM's claim dismissed.

[Monadelphous](#)

[From Benchmark Wednesday, 17 June 2015]

Song

By James Joyce

My love is in a light attire
Among the apple trees,
Where the gay winds do most desire
To run in companies.

There, where the gay winds stay to woo
The young leaves as they pass,
My love goes slowly, bending to
Her shadow on the grass.

And where the sky's a pale blue cup
Over the laughing land,
My love goes lightly, holding up
Her dress with dainty hand.

<http://www.poetryfoundation.org/bio/james-joyce>

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