

Friday, 27 March 2015

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

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Executive Summary (1 minute read)

Gold & Copper Resources Pty Ltd v The Hon Chris Hartcher, Minister for Resources & Energy, Special Minister (NSWCA) - administrative law - renewal of exploration licence not void - appeal dismissed

Nazero Group Pty Ltd v Top Quality Construction Pty Ltd (NSWSC) - security of payments - plaintiff seeking to quash adjudication decision required to pay unpaid portion of adjudication amount into Court

Summaries with links (5 Minute Read)

Gold & Copper Resources Pty Ltd v The Hon Chris Hartcher, Minister for Resources & Energy, Special Minister [2015] NSWCA 57

Court of Appeal of New South Wales

Beazley P; Macfarlan & Gleeson JJA

Administrative law - company held exploration prospecting licence granted under *Mining Act 1992* (NSW) - company sought renewal of licence for two years - company sent new first page of application to Department outside time prescribed by Act - new first page specified term of requested renewal was five years - Minister renewed licence for five years - appellant challenged validity of renewal pursuant to s293(1)(q)(ii) - appellant sought declaration renewal of licence void and of no effect - appellant contended that in sending new first page company withdrew or abandoned initial application and made new application out of time, which could not enliven Minister's power to renew licence under s114 - held: application not *finally disposed*

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of when Minister renewed licence - application renewal could not be withdrawn except by lodging notice with Director-General in accordance with s130 - not open for appellants to raise question of company's intention to submit new application on appeal - appellant's argument that company submitted new application inconsistent with s16 - appeal dismissed.

[Gold](#)

[From Benchmark 20 March 2015]

Nazero Group Pty Ltd v Top Quality Construction Pty Ltd [2015] NSWSC 232

Supreme Court of New South Wales

Hammerschlag J

Security of payments - plaintiff and first defendant entered agreement under which first defendant would do formwork and concreting for plaintiff - payment dispute arose - adjudicator made determination in first defendant's favour - plaintiff sought to quash adjudication - first defendant sought order requiring plaintiff to pay unpaid portion of adjudicated amount as security into Court pending final determination of proceedings - s25(4)(b) *Building and Construction Industry Security of Payment Act 1999* (NSW) required payment of such amount into Court pending determination of proceedings to set aside a judgment based on adjudication, however in this case first defendant had not filed adjudication as judgment for a debt - exercise of discretion in particular circumstances of case - s25 held: policy of not served by removing first defendant's protection pending determination of plaintiff's challenge even though s25(4)(b) did not apply in terms - manifestly unfair use of Court's process to permit plaintiff to mount its challenge without having to pay money into Court - proceedings stayed unless plaintiff paid unpaid portion of amount into Court.

[Nazero](#)

[From Benchmark 19 March 2015]

Old Wine

by Margaret Widdemer

If I could lift

My heart but high enough

My heart could fill with love:

But ah, my heart

Too still and heavy stays

Too brimming with old days.

[Margaret Widdemer](#)

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