

COURT OF APPEAL

**FRASER JA
MORRISON JA
BODDICE J**

**Appeal No 3422 of 2015
SC No 10864 of 2014**

CARMELO DOMENICO CURCURUTO

Appellant

v

CATERINA CURCURUTO

PUBLIC TRUSTEE OF QUEENSLAND

Respondents

BRISBANE

MONDAY, 16 NOVEMBER 2015

JUDGMENT

FRASER JA: This is an appeal against an order made in the trial division appointing statutory trustees for sale in respect of four separate lots of real property owned jointly by the appellant and his mother, who is now represented by the Public Trustee. When the matter was called, the appellant did not appear.

As is well-known, there are very few grounds upon which such an application as was made in the trial division can be opposed. The judge in the trial division gave persuasive reasons for holding

that there was no exceptional basis here for refusing the order and made the order. The appellant's outline did not contain any challenge to the reasoning of the primary judge. There is no basis whatever for thinking that there is any reasonable ground for contending that the order made below was incorrect.

The notice of appeal was filed out of time so the appellant requires an extension of time. In the circumstances, it is appropriate simply to refuse the implied application for an extension of time.

The orders I would make are:

1. Refuse the application for an extension of time.
2. Secondly, given that no person, properly advised, could have thought there was any basis for bringing the application or the appeal, order that the applicant pay the respondent's costs of the application, including the proposed appeal, on an indemnity basis.

BODDICE J: I agree.

MORRISON JA: I agree.

FRASER JA: Those are the orders of the court.