

SUPREME COURT OF QUEENSLAND

CITATION: *Young v Crime and Corruption Commission* [2018]
QSC 12

PARTIES: **GREGORY RAYMOND YOUNG (BANKRUPT)**
(plaintiff)
v
CRIME AND CORRUPTION COMMISSION
(defendant)

FILE NO/S: BS No 12210 of 2017

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 9 February 2018

DELIVERED AT: Brisbane

HEARING DATE: 2 February 2018

JUDGE: Martin J

ORDER: **The claim filed 20 November 2011 and the amended statement of claim filed 31 January 2018 be struck out.**

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – PLEADINGS – STRIKING OUT – FRIVOLOUS OR VEXATIOUS PLEADING – DISCLOSING NO REASONABLE CAUSE OF ACTION OR DEFENCE – OTHERWISE ABUSE OF PROCESS - where the defendant applied to strike out the plaintiff’s claim and amended statement of claim – whether the claim and amended statement of claim should be struck out as disclosing no reasonable cause of action, being scandalous, vexatious and an otherwise abuse of process of the court *Uniform Civil Procedure Rules 1999* (Qld) r 16(e), r 171(1)(a), r 171(1)(c)

COUNSEL: Respondent/plaintiff for himself
B McMillan for the applicant/defendant instructed by the Crime and Corruption Commission

- [1] Gregory Raymond Young has commenced proceedings against the Crime and Corruption Commission. The CCC seeks orders setting aside the Claim and Amended Statement of Claim. It relies on the provisions of r 16 and r 171 of the *Uniform Civil Procedure Rules 1999* (Qld)
- [2] It should first be observed that the Amended Statement of Claim (ASOC) is, with some irrelevant exceptions, entirely inconsistent with the rules contained in the *UCPR* concerning the manner in which pleadings are to be drawn. But, the inadequacy of the pleading is not confined to mere matters of form.
- [3] In order to fully comprehend the awkward reasoning which underpins the ASOC, it would be necessary to set it out in full. That, though, is not an appropriate course of action in these circumstances – the ASOC is some 200 paragraphs long. It will be sufficient if I set out some representative examples of the pleading.
- [4] The pleading is based on a series of misapprehensions by the plaintiff as to the relationship between him and the Crime and Corruption Commission, the effect and purpose of the *Crime and Corruption Act 2001*, and the effect and purpose of the *Criminal Code 1899*. Layered upon that is a misunderstanding of the law relating to fiduciary relationships and negligence. Complicating that further is the plaintiff's misunderstanding of the relief which might be available in this Court if a cause of action were to be demonstrated.
- [5] In the ASOC Mr Young seeks a large number of orders. For example, he seeks:
- (a) a “finding” that he was not guilty of the alleged sexual harassment of Mrs Rebecca Shields whilst they were employed by Gold Coast City Council in 2005 and the “plaintiff was in psychiatric distress as a consequence of constant workplace harassment”,
 - (b) an order that “the finding by the Southport Magistrate on 2 May 2007 in the proceedings brought by the Gold Coast City Council against the then Councillor Susan Kim Douglas, as follows, is annulled by the Queensland Supreme Court:

“... I find that Ms Shields was a victim of sexual harassment in the workplace by Mr Young”
 - (c) an order that “the disparaging attack by Gold Coast City Council against Mr Greg Young during the 2007 Douglas proceedings as shown in the table in paragraph 120 further above (which on the face of these multiple allegations, reached clause 10 (‘non-disparagement’) of the deed of release executed between the Gold Coast City Council and Mr Greg Young on 24 November 2005, inflicting great harm on the plaintiff and his wife) is annulled by the Queensland Supreme Court.”

- [6] None of those orders may be made in these proceedings because, at the very least, the persons who might be affected by the orders are not parties to these proceedings. In any event, the relief sought is not available for many other reasons, including that this Court does not annul mere findings.
- [7] Other relief sought which does involve, in a peripheral way, the CCC, appears in paragraph 197 of the amended statement of claim. In that paragraph Mr Young seeks orders that a jury “decide (with four types of damages), with the Queensland Supreme Court to quantify confirmed damages via damages and/or via equitable compensation ...” twelve questions of fact. I pause to observe that this is not relief available in any way on the pleadings as they stand even if such relief were otherwise available. Some of the questions sought to be decided by the jury by way of an order of this Court include:
- (a) “Did the Plaintiff, Mr Gregory Raymond Young, engage in sexual harassment of Mrs Rebecca Shields, as legally defined in Section 119 of the *Anti-Discrimination Act* whilst he and she were employed by the Gold Coast City Council in 2005 and the Plaintiff was in psychiatric distress?”
 - (b) “Did the Defendant, the CCC, breach its statutory duty and its duty of care that it owed the Plaintiff with regard to the major crime of judicial corruption against the Plaintiff by Queensland Supreme Court judicial officers in proceedings 1057/14 and CA608/15?”
 - (c) “Did the Defendant, the CCC, breach its statutory duty and its duty of care that it owed the Plaintiff with regard to the major crime of perjury against the Plaintiff in its false claim on 29 September 2017 that the *Bankruptcy Act* 1966 required the Plaintiff to obtain the express written permission of the Bankruptcy Trustee before commencing any legal proceedings?”
 - (d) “Did the Defendant, the CCC, breach its statutory and its duty of care that it owed the Plaintiff with regard to the major crime of grievous bodily harm inflicted on the Plaintiff’s wife by the Defendant?”
 - (e) “Did the Defendant, the CCC, breach its statutory duty and its duty of care that it owed the Plaintiff with regard to the major crime of torture upon the Plaintiff and his wife by the GCCC and the Defendant?”
- [8] The plaintiff also claims damages against the defendant - special, general, punitive and aggravated - for breach of statutory duties and/or breach of statutory obligations; damages (special, general, punitive and aggravated) for negligence; and equitable compensation for breach of fiduciary duties or equitable duties owed to the plaintiff by the “2015-2017 CCC Chairman Mr Alan MacSporran QC” in relation to the “major crime of judicial corruption”; and equitable compensation for breach of fiduciary duties or equitable duties, owed to the plaintiff by the defendant in relation to the “major crime of extortion” by the Gold Coast City Council.

[9] Large parts of the pleading appear to be based on the misapprehension that s 415 of the *Criminal Code* 1899 – which defines the crime of extortion – in some way imposes a duty on the defendant. Paragraph 5a(a) asserts:

“There is a duty created by statute. The subject duty with respect to the crime of extortion was created by the Queensland Parliament in section 415 of the Criminal Code 1899 (Qld) as it is the Parliaments pejorative (sic) where it created that duty, not the defendants. That duty is further pleaded in B1 - the Queensland Parliaments intentions concerning the major crime of extortion and paragraph 6 to 9 below are specifically pleaded in that regard.”

[10] In section B-1 of the ASOC the following appears:

“6. In addition to the CC Act in paragraph 2 above, the Parliament of Queensland enacted the Criminal Code 1899 (Qld) (the Criminal Code) and Parliament provided protection to Queensland citizens against the crime of extortion in section 415 of the Criminal Code.

7. Further to paragraph 6 above, the plaintiff is within the specified class of person who Parliament protected, as he was born in Chinchilla, Queensland and has lived his whole life as a permanent resident in South East Queensland.”

[11] Section 415 of the *Criminal Code* does not provide protection in the sense used by the plaintiff in his pleading. It creates a specific crime punishable in accordance with the provisions of the *Criminal Code*.

[12] The pleading is diffuse and is a combination of assertion, aside and argument. For example, in paragraph 39 it is pleaded that “Legal literature cites ‘... what is the locus classicus of the law on the topic of the Tort of Statutory Duty ...’” and goes on to quote in that paragraph extracts from decisions of the High Court. In later paragraphs Professor Glanville Williams is quoted. As the pleading progresses, further irrelevant material appears with assertions against members and former members of the Gold Coast City Council. For example, paragraph 48 alleges:

“Further to sub-paragraph 46(c), there will be alarm by all councillors, from 2005 to date, at the Defendant’s failure to identify major fraud of Gold City ratepayer funds.”

[13] Later in the pleading, the plaintiff asserts that the Chair of the Crime and Corruption Commission is in a fiduciary relationship with the plaintiff. In particular, he alleges that the Chair of the CCC breached his alleged fiduciary obligations by failing to properly investigate the judicial corruption referred to in the pleading. The reader of the pleading is referred to what is described as “academic Professor Finn’s opinion” as to what identifies a fiduciary

relationship and goes on to assert that “the chairman is my fiduciary. We are aligned on judicial corruption complaints.”

[14] In a series of disconnected statements about the alleged fiduciary relationship, the plaintiff calls upon statements made by Lord Herschell and provides as particulars to an allegation what his Lordship said in *Bray v Ford* [1896] AC 44 at 51.

[15] At various places in the pleading, the plaintiff refers to what he calls “High Court of Australia common law” and “House of Lords common law”.

[16] The pleading goes on in a continuous repetition of irrelevant, unsupportable and scandalous claims to include the following:

“181. The Defendant and/or the Defendant’s Chairman, negligently failed to investigate and then deal with the following breaches, or the undermining of, High Court of Australia common law, by a Queensland Supreme Court judicial officer in proceedings, BS1057/14. These breaches of High Court common law relate to the Plaintiff’s Breach of Fiduciary Duty - Judicial Corruption cause of action in PART D above and the pleaded material facts in sub-paragraphs 80(a) to 80(c) and paragraph 87 above:

a) the Queensland Supreme Court breached High Court of Australia Common Law as follows, in relation to a Denial of Procedural Fairness:

[the plaintiff then sets out one High Court authority and one from the Court of Appeal in New South Wales]

b) the Queensland Supreme Court breached High Court of Australia Common Law, as follows, in relation to a Denial of Natural Justice:

[a High Court authority is referred to]

c) High Court Common Law is not a “part of the laws of Queensland” in the sense of Queensland judicial officers having “independence and immunity” from this law, as the CCC implies in its letter to the plaintiff dated 9 July 2015. The High Court is just that, a higher court.”

[17] It sometimes occurs on applications such as this that the Court will allow a misguided plaintiff an opportunity to put into a sensible form the claim which the plaintiff has. This is not a case where the error is one of the expression of the cause of action. On the material before me, I can see no basis for any of the claims made by the plaintiff and it would be inappropriate to expose the defendant to a further claim based upon the assertions which are contained in the current pleading. The statement of claim discloses no reasonable cause or causes of action. It seeks

relief that cannot be claimed and is, in the manner in which it is pleaded, vexatious. It is a rambling abuse of the process of this Court.

Order

The claim filed on 20 November 2011 and the amended statement of claim filed 31 January 2018 be struck out.