

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

FRYBERG J

No S875 of 2002

METALCORP STEEL PTY LIMITED
(ACN 002 581 213)

Applicant

and

VALERIE LYNN SMITS and
RONALD CORNELIUS SMITS

Respondent

BRISBANE

..DATE 04/02/2002

JUDGMENT

HIS HONOUR: I have before me an application by the judgment creditor in an action in the District Court. That Court gave judgment in favour of the plaintiff in matter D450 of 2001 for \$191,829.45 inclusive of interest on 28 March 2001.

The defendants are persons or, at least one of the defendants is a person, working in Papua New Guinea and the judgment creditor wishes to enforce the judgment in that country under the Reciprocal Enforcement of Judgments Act of Papua New Guinea. That Act makes provision in relation to Australia only for the enforcement of judgments of Australian superior courts. The application before me seeks an order that the District Court judgment be registered in this Court.

There is no rule which permits such registration, I am assured by the applicant, and no case or statute has been cited to me which would authorise me to do that. The applicant relied upon the decision of Justice Cohen in the Supreme Court of New South Wales in an unreported matter *Vizera Proprietary Limited v Mezan Enterprises Proprietary Limited*, matter 1045 of 1998 in, I think, the equity division, a judgment given on 19 March 1998.

The proposition for which the case was cited was that the superior courts have inherent jurisdiction to act in aid of inferior courts. That no doubt is so; however, it does not mean that a superior court can invent a completely new jurisdiction and, in any event, it does not seem to me that

registering the District Court judgment or creating a new procedure to do so would be in aid of the District Court.

I am unpersuaded that I have any power to do as the applicant seeks. Registry officers have, however, drawn my attention to the provisions of rules 801 and 802 of the Uniform Civil Procedure Rules. Rule 801(3) provides:

"An enforceable money order of the District Court...may be enforced in the Supreme Court if the Supreme Court so orders."

To enforce such an order in this Court it is necessary that the District court order be filed in this Court. That may or may not be enough to achieve the purpose which the applicant seeks to achieve. Section 15 of the Foreign Judgments Act 1991 of the Commonwealth provides that subject to that section, where an application is duly made by a judgment creditor who wishes to enforce in a country a judgment that has been given in an Australian Court the Registrar of the Court must issue a certified copy of the judgment and a certificate to the creditor.

The section provides that the certificate must be as is prescribed by the rules of Court. That, in turn, is dealt with in this State by the Supreme Court (Foreign Judgments) Rules 1993. Rule 14 provides that an application under section 15 of the act must be in a form approved by the Registrar and that for the purposes of section 15(1)(b) of the Act a certificate with respect to a judgment of the

court must contain certain particulars. It lists the various particulars to be provided.

The obvious difficulty which the applicant faces is that even though filed in this Court the judgment may well still not be a judgment of this Court. Nonetheless, it may be that the applicant will be able to persuade the Registrar to adapt the wording appropriately to provide a certificate which will advance its purpose. The certificate so provided may be able then to be used in Papua New Guinea.

The result that there is no enforcement of Queensland District Court Judgments in Papua New Guinea might at first sight seem slightly strange but it is apparent from looking at the Foreign Judgments Act that its purpose primarily is the reciprocal enforcement of the judgments of superior Courts.

It would not be possible in Australia to enforce the judgment of an inferior court of Papua New Guinea. Some provision is made in the regulations made under the Foreign Judgments Act for the enforcement of judgments of inferior Courts of specified countries but they are specified and it is clear that Papua New Guinea is not among the countries whose Courts are specified.

I am therefore prepared, if requested, to order that the judgment given in the District Court on 28 March 2001 in action number D450 of 2001 be enforced in the Supreme Court.

Do you wish that order?

MR EVANS: Yes, I do your Honour.

HIS HONOUR: It is so ordered. It will be up to you to file it and apply to the Registrar for a certificate.
