

COURT OF APPEAL

McMURDO P

Appeal No 5036 of 2003

ANDREW JAMES BORG & ORS

v

NORTHERN RIVERS FINANCE PTY LTD & ORS

ANDREW JAMES BORG	First Respondent/First Plaintiff
JASON MARK BRYNE	Second Respondent/Second Plaintiff
ROBERT STUART CHRISTENSEN	Not party to appeal/Third Plaintiff
GLEN ANGELLO COPPO	Third Respondent/Fourth Plaintiff
LAURENCE ROY DIXON	Not party to appeal/Fifth Plaintiff
IAN ANTHONY GLAZEBROOK	Not party to appeal/Sixth Plaintiff
MICHAEL CHARLES GOTTKE	Fourth Respondent/Plaintiff
BRIAN KENNETH HINCHEY	Not party to appeal/Plaintiff
ROBERT MICHAEL McCLOY	Not party to appeal/Plaintiff
NANCY MARY MONTGOMERY	Fifth Respondent/Plaintiff
HENRY ALEXANDER MONTGOMERTY	Not party to appeal/Plaintiff
GORDON EDWARD PARISH	Sixth Respondent/Plaintiff
GORDON JOHN REID	Respondent/Plaintiff
JAMES MICHAEL ROACH	Respondent/Plaintiff
GLEN ALAN SCOTT	Not party to appeal/Plaintiff
GASPAR SICH	Respondent/Plaintiff
NEIL GREGORY CAMERON	Respondent/Plaintiff
COLIN SCOTT PURDIE	Not party to appeal/Plaintiff
GEOFFREY DAVID RAPSON	Respondent/Plaintiff
DREW KINGSLEY WOODMAN	Not party to appeal/Plaintiff

NIKO JOZINOVIC	Respondent/Plaintiff	
NORTHERN RIVERS FINANCE PTY LTD	Not party to appeal/Defendant	
INVESTMENT LICENCING PTY LTD	Not party to appeal/Second Defendant	
NORTHERN RIVERS PLANTATION MANAGEMENT LTD	Not party to appeal/Third Defendant	10
D PAWSKI & R M NUMIS T/A SECURINVEST ACCOUNT SER	First Appellant/Fourth Defendant	
DREW GRAHAM FRANCIS	Not party to appeal/Fifth Defendant	
BASE METALS EXPLORATION NL	Not party to appeal/Sixth Defendant	
EXPLORERS AND PROSPECTORS FINANCE LIMITED	Not party to appeal/Defendant	20
DARREN CHARLES HORNER	Second Appellant/Defendant	
JOHN MEARES	Not party to appeal/Defendant	
BANALASTA OIL PLANTATION LTD	Not party to appeal/Defendant	
SAFEINVEST PTY LTD	Not party to appeal/Defendant	30
KAREN EVANS	Not party to appeal/Defendant	
PLANTATION EQUITY PTY LTD	Not party to appeal/Defendant	
 BRISBANE		
 ..DATE 19/12/2003		40
 ORDER		
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THE PRESIDENT: This appeal was filed on the 6th of June 2003 against what purported to have been an order of Justice Mackenzie of the 9th of May 2003. In fact, what was published on that day was reasons concerning liability and they were the reasons for a proposed order which has not yet been published.

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At first the matter was placed on abeyance but the Registry then became aware that the appeal purported to be from something which was not, in fact, an order of the Court. The matter was then raised with the parties. The solicitors for the appellants, Porski and Noonas, were given leave to withdraw on the 28th of November 2003 and from that time that they provided an address for service for the Registry to which notice of this mention was sent detailing exactly what it was about. The second appellant was also sent notice at his address for service supplied to the Registry. They have not appeared today although Mr Crawford, on behalf of QBE Management Services, the insurers of the first appellants, did appear.

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The position is that the appeal appears to be incompetent because it is an appeal from an order that has not yet been made. Mr O'Connell, who appears for the respondent, confirms this. In any case, the appeal has not been progressed as it should and the dilatoriness of the appellants in keeping contact with the Registry and not appearing themselves today, confirms to me that the appropriate order to make is that this appeal should be struck out for want of prosecution and that

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the appellants should pay the respondent's costs to be assessed. Those are the orders I make.

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