

COURT OF APPEAL

[2005] QCA 182

McMURDO P

Appeal No 11135 of 2004

LEONARD THOMAS GEORGE SWETTENHAM

Appellant/Plaintiff

and

ROSE-MARIE BEVERLEY WILD

Respondent/Defendant

BRISBANE

..DATE 27/05/2005

ORDER

THE PRESIDENT: Mr Pope asks for an adjournment of this matter which is listed for hearing in June. He appears for the respondent. The appeal was filed on the 21st of December last year against an order of a judge of the trial division of the 29th of November 2004.

The matter is listed for hearing on the 1st of June 2005. Some months ago on the 15th of March 2005 it seems that, through administrative error on the part of the respondent's solicitor, Mr Pope was not notified of the hearing date and only became aware of it on Monday of this week and he will be overseas at the time the matter is listed for hearing. He asks for an adjournment of the matter because he is familiar with the case and his clients will be put to additional expense if another counsel is to be briefed.

The matter does not look particularly complex. I am confident that if fresh counsel are briefed at this stage they will be able to prepare the matter in time. The adjournment is opposed although the appellant cannot point to any particular prejudice if the matter were delisted and re-listed at the next available hearing in about three months time.

The appellant is, however, 82 years old. The matter is a family dispute. It must be in the interests of all concerned to have the appeal finalised as soon as possible. The

additional expense to the respondent in briefing another counsel would probably be offset in any case by the inevitable order were the matter to be adjourned that the applicant/respondent would have to pay the costs of the respondent/appellant thrown away by the adjournment.

In the circumstances I refuse the application for an adjournment.

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And I further order that the applicant/respondent pay the respondent/appellant's costs of today's hearing.

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