

SUPREME COURT OF QUEENSLAND

CITATION: *Bendigo and Adelaide Bank Limited v Ruddle and Ors* [2015] QSC 239

PARTIES: **BENDIGO AND ADELAIDE BANK LIMITED ABN 11 068 049 178**
(Plaintiff)
v
IAN REGINALD RUDDLE
(First Defendant)
SAMANTHA JANE RUDDLE
(Second Defendant)
SAM RUDDLE INVESTMENTS PTY LTD ACN 138 984 880
(Third Defendant)
RUDDCO DRILLING & BLASTING PTY LTD
(SUBJECT TO A DEED OF COMPANY ARRANGEMENT) ACN 073 934 826 IN ITS OWN RIGHT AND AS TRUSTEE FOR THE RUDDCO TRUST
(Fourth Defendant)

FILE NO/S: Brisbane No 3805 of 2015

DIVISION: Trial

PROCEEDING: Application

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 20 August 2015

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGE: Boddice J

ORDER:

- 1. Pursuant to Rule 913(2) of the *Uniform Civil Procedure Rules 1999* (Qld), the Plaintiff be granted leave to issue an enforcement warrant for possession of the land described in:
 - (a) Title Reference 50375680 as Lot 10 on SP 141007, County of Ward, Parish of Coomera; and**
 - (b) Title Reference 50374276 as Lot 10 on SP 141006, County of Ward, Parish of Coomera, situated at 76 Shipper Drive, Coomera, Queensland 4209 with the appurtenances.****
- 2. That an Enforcement Warrant be issued by the Court to:**

- (a) **the First Defendant, Ian Reginald Ruddle;**
- (b) **the Second Defendant, Samantha Jane Ruddle;**
- (c) **the Third Defendant, Sam Ruddle Investments
CAN 138 984 880;**
- (d) **the Fourth Defendant, Ruddco Drilling &
Blasting Pty Ltd (Subject to a Deed of Company
Arrangement) CAN 073 934 826 in its own right
as Trustee for the Ruddco Trust; and**
- (e) **the Occupants of the land described in**
 - (i) **Title Reference 50375680 as Lot 10 on SP
141007, County of Ward, Parish of Coomera;
and**
 - (ii) **Title Reference 50374276 as Lot 10 on SP
141006, County of Ward, Parish of Coomera,
situated at 76 Shipper Drive, Coomera, Queensland 4209.**

CATCHWORDS: PROCEDURE – SUPREME COURT PROCEDURE –
QUEENSLAND – JURISDICTION AND GENERALLY
Uniform Civil Procedure Rules 1999 (Qld) r 913(2)

COUNSEL: No appearance for the plaintiff, the plaintiff's submissions
were heard on the papers
No appearance for the defendants

SOLICITORS: No appearance for the plaintiff, the plaintiff's submissions
were heard on the papers
No appearance for the defendants

- [1] By application filed 28 July 2015, the plaintiff applied for an order that it be given leave pursuant to r 913(2) of the *Uniform Civil Procedure Rules 1999 (Qld)* to issue an enforcement warrant for possession of land situated at 76 Shipper Drive, Coomera in the State of Queensland. The warrant was sought against each of the defendants and the occupants of the land.
- [2] On 23 June 2015 the plaintiff obtained an order for possession of the said land. Despite being served with the order, none of the defendants have complied with the order. It appears a person other than one of the defendants is presently in occupation of the land. The identity of that occupant is unknown.

- [3] The land in question consists of a marina berth and an associated storage shed. It is not residential property. However, as it appears that a person other than one of the defendants is presently in occupation of the land under a lease or tenancy agreement, leave is necessary pursuant to r 913(2) of the *UCPR*.
- [4] The plaintiff has validly obtained an order for possession of the land. The plaintiff suffers ongoing loss and damage by reason of non-compliance with the order delivering up possession of that land. There is no reason why the plaintiff ought not receive the benefit of that order.
- [5] I am satisfied the plaintiff should be granted leave to issue the enforcement warrant for possession of the said land.
- [6] I am satisfied it is appropriate to determine the application without an oral hearing.
- [7] I make order in terms of the draft which I initial and place with the papers.