

CHAMBERS

BEFORE MASTER LEE Q.C.

BRISBANE, 15 MARCH 1983

BETWEEN:

A.S. TOMKIN NOMINEES PTY. LTD.

Plaintiff

- and -

DAINFORD LIMITED

Defendant

ORDER

MASTER: In this matter I have formed the opinion that the action in question falls clearly within the ambit of O.61 r.5, and accordingly I make the order sought in paragraph 9 of the summons. Before I give any consequential directions I should state that I have also formed the opinion that in the consolidated action, the conduct of the action should properly rest with the plaintiff in the subsequent action, being the party seeking to enforce the contract by specific performance, and I direct accordingly.

Order that Dainford Limited deliver a statement of claim in the consolidated action within 21 days of today's date.

Order that A.S. Tomkin Nominees Pty. Ltd. and A.S. Tomkin deliver a defence and counterclaim, if any, within 21 days after delivery of the statement of claim, and that

Dainford Limited deliver a reply and answer, if any, within 21 days of delivery of the defence and counterclaim.

I order that the costs of and incidental to this application be the applicant's costs in the cause.

-----