

SUPREME COURT OF QUEENSLAND
CIVIL JURISDICTION
ATKINSON J

PETER ADRIAN ALPHONSUS OWEN

Applicants

and

ROBIN MCGILVERY

and

COORPAROO BOWLS CLUB INC

Respondent

BRISBANE

..DATE 25/10/2007

ORDER

HER HONOUR: This is an application for an interim injunction brought on an urgent basis to restrain the respondent, The Coorparoo Bowls Club Inc, from executing an agreement with the Coorparoo RSL & Services Memorial Club Inc in terms of an agreement which is exhibited to the material before the Court, or in substantially those terms.

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All that is sought is an interim injunction until 5.00 p.m., Tuesday, 29 October 2007 or earlier order.

The matter is brought urgently because it has been intimated that the respondent intends to have the agreement executed this coming Saturday by the management committee of the respondent.

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Attempts have been made to inform the Club of these proceedings and indeed to serve the Club. It appears that, amongst other things, service was effected on the respondent by service on the Secretary of the respondent at 11.08 this morning, which is in accordance with the service requirements provided under section 138(1) of the Associations and Incorporations Act 1981.

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Of course, it is short service and given the urgency of the application and it appropriate in those circumstances if an injunction is granted that it be only of an interim nature to allow the respondent the opportunity to be heard. That does not mean, of course, an interim injunction ought be granted; the question is whether or not there is a serious question to

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be tried and whether the balance of convenience requires the grant the interim injunction.

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There is a serious question to be tried whether or not the disposition of the property of the respondent would be consistent with the status of the respondent as an incorporated association and consistent with its constitution rules and by-laws, and the balance of convenience requires that the Club be restrained from entering into any agreement which would render the originating application for a declaration that it is beyond the power of management committee to enter into the agreement inutile if the agreement were already entered into.

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In those circumstances it is appropriate to grant an interim injunction until 5.00 p.m. on Tuesday, 29 October 2007 or earlier order restraining the respondent by its servants, agents or howsoever from executing an agreement with the Coorparoo RSL & Services Memorial Club Inc in terms of the draft agreement which is exhibited to the affidavit of Peter Owen, sworn on 25 October 2007 and filed this day by leave or substantially on those terms.

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Costs are reserved.

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