



Civil and Administrative Tribunal
New South Wales

Case Name: The Owners Strata Plan No. 2000 v Bylinska

Medium Neutral Citation: [2019] NSWCATAP 151

Hearing Date(s): On the papers

Date of Orders: 19 June 2019

Decision Date: 19 June 2019

Jurisdiction: Appeal Panel

Before: S Westgarth, Deputy President
J Currie, Senior Member

Decision: (1) An application for a costs order in the appeal is refused

Catchwords: Costs

Legislation Cited: Nil

Cases Cited: Nil

Category: Costs

Parties: The Owners Strata Plan No. 2000 (Appellant)
Elizabeth Bylinska (Respondent)

Representation: E Russell, Chambers Russell (Appellant)
E Bylinska (Respondent self-represented)

File Number(s): AP 19/05878

Publication Restriction: Unrestricted

Decision under appeal:

Court or Tribunal: Civil and Administrative Tribunal

Jurisdiction: Consumer and Commercial Division

Citation: Not applicable
Date of Decision: 21 August 2018
Before: G Towney, General Member
File Number(s): SC 18/27660

REASONS FOR DECISION

Background

- 1 In this appeal, we published a decision on 6 May 2019. The result was that the appeal was upheld and the application of the respondent was remitted to the Consumer and Commercial Division of the Tribunal for a rehearing. We also made directions for the appellant to make an application for costs.
- 2 However, we overlooked the fact that at a directions hearing held 19 February 2019 the appellant was given leave to be legally represented on the appeal on the condition that the appellant not recover legal costs. In our decision published 6 May 2019, we did not refer to that order or the condition upon which the grant of legal representation had been made.
- 3 In any event, the appellant has not made an application for legal costs and the time given in our directions for the appellant to do so has expired some weeks ago.

Decision

- 4 Because of the ambiguity inadvertently created by the fact that we permitted the appellant to make an application for costs of the appeal but did not have any regard to the order made on 19 February 2019, we are of the opinion that it is appropriate to expressly deal with the question of costs. Given the above terms of the leave granted on 19 February 2019 and given the fact that there has been no application for costs lodged by the appellant, the appropriate way of resolving the ambiguity is to formally refuse to make an order for costs of the appeal.
- 5 Accordingly, we make the below order.

Orders

6 The Appeal Panel makes the following orders:

(1) An application for a costs order in the appeal is refused.

I hereby certify that this is a true and accurate record of the reasons for decision of the New South Wales Civil and Administrative Tribunal.

Registrar

I hereby certify that this is a true and accurate record of the reasons for decision of the Civil and Administrative Tribunal of New South Wales.

Registrar

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