

SUPREME COURT OF QUEENSLAND

CITATION: *Villan v The Body Corporate for The Winston (Cairns) Community Titles Scheme 37263* [2024] QCA 31

PARTIES: **JADE TANNAH VILLAN**
(applicant)
v
**THE BODY CORPORATE FOR THE WINSTON
(CAIRNS) COMMUNITY TITLES SCHEME 37263**
(respondent)

FILE NO/S: Appeal No 11957 of 2023
DC No 1199 of 2023

DIVISION: Court of Appeal

PROCEEDING: Application for Leave s 118 DCA (Civil)

ORIGINATING COURT: District Court at Brisbane – Unreported, 28 August 2023 (Rosengren DCJ)

DELIVERED ON: 8 March 2024

DELIVERED AT: Brisbane

HEARING DATE: 8 February 2024

JUDGES: Bond and Boddice JJA and Fraser AJA

ORDERS:

- 1. Leave to appeal be granted.**
- 2. The appeal be allowed.**
- 3. The orders of the primary judge be set aside and in lieu it be ordered:**
 - a. The appeal be allowed.**
 - b. Summary judgment be set aside, with an order that the applicant for summary judgment pay the respondent's costs of the application.**
- 4. The parties file written submissions in respect of costs of the application for leave to appeal and of the appeal below, limited to three pages, within seven days.**

CATCHWORDS: APPEAL AND NEW TRIAL – PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – ENDING PROCEEDINGS EARLY – SUMMARY DISPOSAL – SETTING ASIDE – whether the proper interpretation of s 229A of the *Body Corporate and Community Management Act 1997* (Qld) excluded from “a related dispute” a debt owing by a body corporate to a lot owner in respect of a different levy period to that forming the claim for recovery of a debt by the body corporate – whether

s 229A did not exclude from consideration, in the respondent's proceeding, the applicant's claim to recovery of amounts paid by way of overpayment – where once it is understood that s 229A deals with debt disputes between the body corporate and an owner of a lot in respect of the recovery of a debt under the Act, there is no warrant to limit a related dispute to only a claim in respect of the same levy period – whether the application should be granted

Body Corporate and Community Management Act 1997 (Qld), s 227(1)(b), s 228(1), s 229(1), s 229(2)(a), s 229(3), s 229A

Body Corporate and Community Management (Commercial Module) Regulation 2008 (Qld)

Body Corporate of the Lang Business CTS 5941 v Green [2008] QSC 318, cited

Project Blue Sky Inc v Australian Broadcasting Authority (1998) 194 CLR 355; [1998] HCA 28, applied

COUNSEL: The applicant appeared on his own behalf
C E Taylor for the respondent

SOLICITORS: The applicant appeared on his own behalf
SLF Lawyers for the respondent

- [1] **BOND JA:** I have had the advantage of reading the reasons of Boddice JA. I have also had the advantage of reading the reasons of Fraser AJA, and agree with them. Accordingly, subject to my agreement with the reasons of Fraser AJA, I respectfully agree with the reasons of Boddice JA and with the orders his Honour proposes.
- [2] **BODDICE JA:** On 12 April 2023, the Magistrates Court of Queensland ordered that summary judgment be entered for the respondent against the applicant in respect of recovery costs incurred in seeking recovery of body corporate levies owed by the applicant to the respondent.
- [3] On 28 August 2023, the primary judge ordered that the judgment amount be amended, but otherwise dismissed the applicant's appeal from that order.
- [4] The applicant seeks leave to appeal the primary judge's decision. The applicant submits that leave ought to be granted to correct a miscarriage of justice occasioned by the primary judge erroneously finding that the levy notices served on the applicant were not defective; that any overpayment of levies was a claim to be pursued in another forum; that the quantum of the recovery costs was established with certainty; that affidavit evidence sought to be advanced by the respondent was admissible; and that it was an appropriate case for summary judgment without the need for a trial.

Background

- [5] The respondent is the body corporate for a community title scheme under the *Body Corporate and Community Management Act 1997* ("the Act").

- [6] On 22 July 2016, the applicant purchased a lot in the community title scheme. Thereafter, he was the recipient of levy notices issued by the respondent, pursuant to the *Body Corporate and Community Management (Accommodation Module) Regulation 2008*.
- [7] At the time the applicant became the owner of the lot, the levy notices issued by the respondent provided for a 20 per cent discount if paid by their due date.
- [8] Between becoming a member, and the end of 2018, the applicant paid the relevant levies by their due dates. However, he claimed not to have received from the respondent the relevant 20 per cent discount.
- [9] In 2018, the applicant stopped paying levies in accordance with notices issued by the respondent. Thereafter, the respondent issued notices containing penalty interest charges and recovery costs.
- [10] By 2020, a substantial sum was owed by the applicant on account of the outstanding levies, penalty interest and recovery costs. Those outstanding sums became the subject of the proceedings instituted in the Magistrates Court of Queensland.
- [11] After the commencement of those court proceedings, the applicant entered into a contract for the sale of his lot. At settlement of that sale, a sum was paid by the applicant to the respondent on account of the outstanding amounts.

Court proceeding

- [12] On 20 July 2021, the respondent filed a claim and statement of claim in the Magistrates Court of Queensland. The claim was for the outstanding levies, penalty interest and recovery costs.
- [13] On 4 January 2022, the applicant filed a conditional notice of intention to defend. An unconditional defence was filed on 14 March 2022, after an amended statement of claim had been filed on 22 February 2022.
- [14] In that defence, the applicant asserted that the levy notices issued by the respondent were defective, as a 20 per cent discount applied to all levy periods; that he had overpaid levies by reason of not being afforded that discount; and that the overpayments rendered the claimed levies, penalty interest and recovery costs inaccurate. The applicant claimed, by way of set off, the amount paid by him on settlement of the lot together with sums owing due to the overpayment of levies and adjustments for the claimed penalty interest and recovery costs.
- [15] On 21 November 2022, the respondent applied for summary judgment. At the hearing on 14 February 2023, the respondent limited the application to the recovery costs said to have been incurred by the respondent in its initial pursuit of those outstanding levies. The respondent accepted that all outstanding levies had been paid and any outstanding penalty interest was not now pursued.
- [16] In resisting summary judgment, the applicant asserted that notwithstanding what may have been the formal resolutions of the body corporate during the relevant periods, there was documentation evidencing a continued assertion to buyers of lots of an ongoing 20 per cent discount for levies paid by their due dates. Further, the failure to afford him the benefit of the 20 per cent discount in respect of the levies

paid by him by their due dates, meant there had been an overpayment by him of levies and any claimed penalty interest and recovery costs had to be reduced by reason of the fact that the applicant was owed money by the respondent.

- [17] The applicant submitted that these factors gave rise to issues requiring a trial.

Magistrates Court decision

- [18] In granting summary judgment, the magistrate, relevantly, found that the evidence established that the respondent had made resolutions affording a 20 per cent discount for payment of levies on time in 2015 and 2016, but thereafter there was no resolution affording a discount. Accordingly, there was no entitlement to a discount for payment of levies on time in any of the periods the subject of the respondent's claim and the respondent was entitled to recover the levies and penalty interest which had been paid by the applicant on settlement of his lot.

- [19] The magistrate further found that as the respondent was entitled to pursue recovery of those levies and penalty interest, it was entitled to the recovery costs incurred by it. Summary judgment for those recovery costs was granted.

Primary decision

- [20] In dismissing the applicant's appeal (subject to a correction in the judgment amount), the primary judge recorded that at the commencement of the Magistrates Court hearing, the respondent's counsel had explained that there had been "some confusion that required clarification around the quantum being claimed ... and what it related to"¹ and that the respondent was content to proceed on the basis that the total amount paid by the applicant on settlement of his lot, was in discharge of the levy contributions owed by the applicant. Further, the respondent would not press any amount said to remain owing for penalty interest given that confusion. Accordingly, summary judgment related only to the recovery costs incurred by the respondent.
- [21] The primary judge held that the magistrate was correct in being satisfied that the respondent had established a prima facie case and in finding that the levy notices were not defective by reason of a failure to include a reference to a 20 per cent discount, as none of the relevant resolutions referred to such a discount.
- [22] The primary judge further held that the magistrate correctly found that the applicant had no real prospects of successfully defending the claim. In doing so, the primary judge found that even if the respondent did not provide the applicant with a 20 per cent discount in the period which was the subject of resolutions containing such a discount, "that issue is not a defence to the action ... for the recovery of the levies paid in later years and the recovery costs".²
- [23] The primary judge said, "I am told that there was a different body corporate involved at that time. It might be that the appellant does have a claim against that body corporate for the overpayment of levies in 2016 and 2017 financial years, but

¹ AB18/15-17.

² AB25/36-37.

it is not a claim within this proceeding, and does not arise in this appeal. In other words, if there is a claim, it is a claim to be pursued in another forum.”³

Consideration

- [24] Central to the applicant’s application for leave to appeal, is a contention that the primary judge erred in concluding that any claim by him for overpayment of levies by reason of the respondent not granting him the benefit of the 20 per cent discount for payment by the due date of the levies in the 2016 and 2017 year, could not be brought in the respondent’s proceeding.
- [25] The respondent submitted that there was no error, as a proper interpretation of the dispute resolution provisions of the Act supported a conclusion that any such claim by the applicant could not be brought in defence of the respondent’s proceeding, as it concerned a different levy period.
- [26] A consideration of the relevant legislative provisions, having regard to the context and purpose,⁴ does not support the respondent’s interpretation.
- [27] Chapter 6 of the Act provides for dispute resolution of specified disputes. Relevantly, for present purposes, “dispute” is defined in s 227 of the Act as a dispute between “the body corporate for a community titles scheme and the owner or occupier of a lot included in the scheme”.⁵
- [28] Whilst the purpose of chapter 6 is expressly stated to be the establishment of arrangements for resolving, in the context of community title schemes, specified disputes, including the exercise of rights or powers or the performance of duties under the Act or community management statements, the exclusivity of the dispute resolution provisions are specific.
- [29] They include that the only resolution for a dispute that is not a complex dispute,⁶ is the resolution of the dispute by a dispute resolution process, or an order of the appeal tribunal, or on appeal from an adjudication on a question of law, “subject to s 229A”.
- [30] Section 229A deals with disputes about particular debts. It provides:
- “(1) A claim to recover a debt the subject of a debt dispute that is a claim under the *Queensland Civil and Administration Tribunal Act 2009*, schedule 3, definition *minor civil dispute*, paragraph 1(a) is, under paragraph 2 of that definition, a minor civil dispute.
 - (2) Subsection (1) does not affect a body corporate’s right to start proceedings in a court of competent jurisdiction to recover a debt the subject of a debt dispute.

³ AB25/38-42.

⁴ *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355, 381 [69].

⁵ *Body Corporate and Community Management Act 1997* s 227(1)(b).

⁶ It was not in issue at the summary judgment application, or the hearing of the application for leave to appeal, that the dispute between the applicant and the respondent was not a complex dispute.

- (3) To remove any doubt, it is declared that an adjudicator does not have jurisdiction in a debt dispute.
- (4) A dispute resolution process does not apply to a debt dispute or a related dispute to a debt dispute once a proceeding to recover the debt the subject of the debt dispute is started before QCAT or in a court of competent jurisdiction.
- (5) If—
 - (a) a dispute resolution process has started for a debt dispute or a related dispute to a debt dispute; and
 - (b) a proceeding to recover the debt the subject of the debt dispute is subsequently started before QCAT or in a court of competent jurisdiction;
 the dispute resolution process is at an end.
- (6) A dispute is a *related dispute* to a debt dispute if—
 - (a) the subject matter of the dispute is related to the subject matter of the debt dispute; and
 - (b) there are proceedings in a court or before QCAT to recover the debt the subject of the debt dispute; and
 - (c) the commissioner considers that the dispute and the debt dispute are connected in a way that makes it inappropriate for the dispute to be dealt with by a dispute resolution process.
- (7) In this section—

debt dispute means a dispute between a body corporate for a community titles scheme and the owner of a lot included in the scheme about the recovery, by the body corporate from the owner, of a debt under this Act.”

- [31] It is not in issue that the dispute between the applicant and the respondent was a debt dispute within the meaning of s 229A of the Act.
- [32] Further, there is no dispute that a claim to recover a debt the subject of a debt dispute is expressly excluded from the purview of an adjudicator, by s 229A(3). Further, s 229A(4) and (5) expressly provide for a dispute resolution process not to apply to a debt dispute or a related dispute once a proceeding has been started, or if subsequently started before QCAT or in a court of competent jurisdiction.
- [33] What is in issue, is whether the proper interpretation of s 229A excluded from “a related dispute” a debt owing by a body corporate to a lot owner in respect of a different levy period to that forming the claim for recovery of a debt by the body corporate.
- [34] The respondent submitted that the requirement, in s 229A(6)(a), that the subject matter of the dispute be related to the subject matter of the debt dispute, supported a conclusion that there was no defence to the respondent’s claim for summary

judgment as the alleged overpayment by the applicant related to levy notices issued in 2016 and 2017, whereas the summary judgment application related to the non-payment of levies from 2018 onwards.

- [35] Nothing in the wording of s 229A, or in the purpose and intent of chapter 6 read as a whole, supports such a limited interpretation.
- [36] The operation of s 229A is broad. The definition of debt dispute in s 229A(7) provides that a debt dispute means, “a dispute between a body corporate for a community titles scheme and the owner of a lot included in the scheme about the recovery, by the body corporate from the owner, of a debt under this Act”.
- [37] Once it is understood that s 229A deals with debt disputes between the body corporate and an owner of a lot in respect of the recovery of a debt under the Act, there is no warrant to limit a related dispute to only a claim in respect of the same levy period. Section 229A(6) allows for a determination, in the debt proceedings, of claims by the lot owners for monies said to be owed to the owner by the body corporate.
- [38] As s 229A did not exclude from consideration, in the respondent’s proceeding, the applicant’s claim to recovery of amounts paid by way of overpayment, it was erroneous for the primary judge to find that claim was a dispute for another forum.
- [39] The respondent conceded that if this Court reached that conclusion, there was no basis upon which summary judgment in its favour could be sustained. Such a concession was appropriate. The quantification of any overpayment required resolution at a trial. Further, that resolution impacted on not only the outstanding levies, but also penalty interest and the recovery costs.

Conclusion

- [40] The applicant has established an error of law by the primary judge in dismissing his appeal from summary judgment. That error involved a plain miscarriage of justice. Any overpayment was properly a subject of a dispute requiring a hearing.
- [41] In those circumstances I would grant leave to appeal and allow the appeal.

Orders

- [42] I would order:
1. Leave to appeal be granted.
 2. The appeal be allowed.
 3. The orders of the primary judge be set aside and in lieu it be ordered:
 - a. The appeal be allowed.
 - b. Summary judgment be set aside, with an order that the applicant for summary judgment pay the respondent’s costs of the application.
 4. The parties file written submissions in respect of costs of the application for leave to appeal and of the appeal below, limited to three pages, within seven days.

- [43] **FRASER AJA:** I have had the advantage of reading the reasons of Boddice JA. Gratefully adopting his Honour's description of the procedural history, the issues in the Magistrates Court and the District Court, and the parties' principal contentions in the application for leave to appeal to this Court, I agree with the orders proposed by his Honour and, subject only to what follows, I respectfully agree with his Honour's reasons.
- [44] Sub-paragraph 4(a) of the applicant's defence to the respondent's claim in the Magistrates Court for unpaid contributions, interest, and recovery costs alleged that the amount of the contributions levied was not payable by the applicant "because all amounts fail to account for a monetary liability that the Plaintiff already owed to the Defendant prior to the noted periods, in respect of a 20% pay on time Discount due to the Defendant each and every time the Defendant paid his Quarterly levy contributions on time, with receipts provided by the Plaintiff as follows". There followed a table of the levied contributions and the dates the applicant alleged he promptly paid the contributions demanded from him between 1 August 2016 and 1 May 2018 (the period specified in the paragraph of the statement of claim to which this paragraph of the defence responded). Other sub-paragraphs quantified the 20% discount "due to the Defendant" and the interest calculated on the total amount of the discounts which had not been allowed. Under a heading "Set-Off", the defence claimed to set-off many amounts, including the 20% discounts and interest on those amounts.
- [45] The respondent's pleaded reply to sub-paragraph 4(a) of the defence incorporated allegations in an earlier paragraph of its reply that:
- (a) The 20% discount did not apply in relation to contributions payable between 1 November 2018 and 1 February 2022. Although the respondent pleaded a general denial, notable by its absence is any pleaded allegation specifically denying the applicant's pleaded allegations to the effect that the respondent had made resolutions for the 20% discount in the two earliest financial years, the respondent had demanded payment of contributions levied for those years in amounts which should have but did not allow for the 20% discounts, and the applicant had paid the demanded amounts in full.
 - (b) The applicant's allegations gave rise to a 'complex dispute' which should be resolved by a dispute resolution process pursuant to s 229(1) of the *Body Corporate and Community Management Act 1997* ("the Act") and s 229(2)(a) of the Act provided the exclusive remedy for that dispute.
- [46] Before the respondent's application for summary judgment was heard in the Magistrates Court, the applicant had paid the contributions which the respondent claimed to be owing to it. The magistrate acknowledged that the dispute about the respondent's claimed entitlement to the contributions remained potentially relevant to the respondent's remaining claims for interest and recovery costs. The magistrate recorded that copies of the resolutions upon which the respondent relied for its claim (which did not include resolutions for any period before the 2019 financial year) were included in its material and none of them provided for the 20% discount. The magistrate correctly rejected the applicant's argument that the respondent body corporate's resolutions for the 20% discount in the financial years preceding 2019 applied in relation to the 2019 – 2022 financial years, for which no similar resolution was passed. As the applicant argued, a resolution of that kind continues

in force unless it is displaced by a resolution to the contrary effect. But each resolution of that kind is properly to be construed as allowing the discount only for the timely payment of the contributions in the particular financial year under consideration at the annual general meeting at which the resolution was passed. The magistrate also discussed other matters which do not need to be resolved in the application in this Court.

- [47] The magistrate characterised the defence in relation to the 20% discount as being a claim by the applicant for a payment from the respondent. As I have explained, the applicant had instead pleaded the relevant facts as a defence by way of set-off. The magistrate's reasons do not address the respondent's reliance upon s 229 of the Act or otherwise explain why the magistrate rejected the applicant's pleaded defence of set-off in relation to his claimed overpayments in the 2015 and 2016 financial years and his consequential claims to set-off interest on the claimed overpayments.
- [48] During the hearing of the applicant's appeal to the District Court, the applicant referred the judge to an admission made by the respondent for the first time in its submissions in that court that resolutions for the discount for timely payment had been passed for the 2015 and 2016 financial years. Counsel for the respondent informed the judge that "with the benefit of time, the respondent has now learned of those earlier resolutions" and "the earlier body corporate manager was just being entirely uncooperative to provide...the necessary information".⁷ It should be noted in this respect that at the summary judgment hearing in the Magistrates Court the respondent's counsel had acknowledged that the annexures to the applicant's defence (which included copies of the earlier resolutions) "would be evidence in this proceeding should the matter proceed to trial".⁸
- [49] The respondent's counsel acknowledged in the District Court hearing that the applicant's material revealed that the discounts were not allowed for in the levy notices when they should have been allowed, and that upon the applicant's material those levy notices had been paid. He submitted that a missing fact concerned the answer to the question of whether the levies were in fact paid on time. (It should be noted here that the respondent's reply did not specifically deny, nor explain its general denial of, the detailed allegations in the applicant's defence about the dates of his payments of the levied contributions and the receipts the respondent had given him for those payments.) In response, the applicant told the judge that he had copies of the receipts and levy notices upon which he wished to rely as proof that he had paid the levies (undiscounted) on time. The applicant offered to give copies of the receipts and levy notices to the respondent's counsel. In circumstances in which the applicant lacked the benefit of legal representation, I would regard it as having been implicit in his submissions that he wished to rely upon those documents as evidence in his appeal.
- [50] The District Court judge did not decide whether the applicant should be permitted to rely upon the applicant's documentary evidence that he had made timely payment of the levy notices in the two earliest financial years. Instead, the primary judge reminded the applicant that the respondent's submission was that the issue to which

⁷ Transcript 28 August 2023 at 1 – 9.

⁸ Plaintiff/Applicant's Supplementary Submissions dated 21 February 2023, para 6.

those invoices related was “to be pursued through the dispute resolution provisions of the Act”.⁹

[51] In these circumstances, and as the respondent’s counsel appropriately acknowledged at the hearing in this Court,¹⁰ the summary judgment given in the Magistrates Court cannot stand unless the Court accepts the respondent’s contention that s 229 precludes the applicant from relying upon the pleaded set-off as a defence.

[52] In Chapter 6 of the Act, s 227(1) defines “dispute” in terms which include “a dispute between ... (b) the body corporate for a community titles scheme and the owner or occupier of a lot included in the scheme”. Plainly such a dispute arose between the respondent body corporate and the applicant lot owner. Section 228(1) states that this chapter of the Act “establishes arrangements for resolving, in the context of community titles schemes, disputes about” topics described in the following four sub-paragraphs. The respondent submits that the parties’ dispute falls within two of those sub-paragraphs: “(a) contraventions of this Act or community management statements” and “(b) the exercise of rights or powers, or the performance of duties, under this Act or community management statements”. It is not contentious that the Act entitles the respondent to recover unpaid contributions duly levied by it as a debt. For present purposes it is appropriate to proceed upon the premise that the parties’ dispute falls within s 228(1).

[53] Section 229(1) of the Act provides that subsections (2) and (3) apply to a dispute if it may be resolved under Chapter 6 by a dispute resolution process. Section 229(3) provides that:

- “(3) Subject to section 229A, the only remedy for a dispute that is not a complex dispute is –
- (a) the resolution of the dispute by a dispute resolution process; or
 - (b) an order of the appeal tribunal on appeal from an adjudicator on a question of law.”

The respondent’s counsel acknowledged that the dispute between the applicant and the respondent is not a “complex dispute”.

[54] Section 229A provides:

- “(1) A claim to recover a debt the subject of a debt dispute that is a claim under the *Queensland Civil and Administrative Tribunal Act 2009*, schedule 3, definition *minor civil dispute*, paragraph 1(a) is, under paragraph 2 of that definition, a minor civil dispute.
- (2) Subsection (1) does not affect a body corporate’s right to start proceedings in a court of competent jurisdiction to recover a debt the subject of a debt dispute.
- (3) To remove any doubt, it is declared that an adjudicator does not have jurisdiction in a debt dispute.

⁹ Transcript 28 August 2023 at 1 – 10.

¹⁰ Transcript 8 February 2024 at 1 – 45 to 1 – 46.

- (4) A dispute resolution process does not apply to a debt dispute or a related dispute to a debt dispute once a proceeding to recover the debt the subject of the debt dispute is started before QCAT or in a court of competent jurisdiction.
- (5) If—
- (a) a dispute resolution process has started for a debt dispute or a related dispute to a debt dispute; and
 - (b) a proceeding to recover the debt the subject of the debt dispute is subsequently started before QCAT or in a court of competent jurisdiction;
- the dispute resolution process is at an end.
- (6) A dispute is a *related dispute* to a debt dispute if—
- (a) the subject matter of the dispute is related to the subject matter of the debt dispute; and
 - (b) there are proceedings in a court or before QCAT to recover the debt the subject of the debt dispute; and
 - (c) the commissioner considers that the dispute and the debt dispute are connected in a way that makes it inappropriate for the dispute to be dealt with by a dispute resolution process.
- (7) In this section –

debt dispute means a dispute between a body corporate for a community titles scheme and the owner of a lot included in the scheme about the recovery, by the body corporate from the owner, of a debt under this Act.”

[55] The broad and unambiguous language in the definition of the term “debt dispute” in s 229A(7) comprehends any dispute about the recovery by a body corporate from a lot owner of a debt under the Act. The applicant’s pleaded defence by way of set-off challenges the respondent body corporate’s entitlement to recover the debt it claims the applicant owes it under the Act. That defence is very clearly “about” the recovery by the body corporate from the owner of a debt under the Act. It is one of the inseparable aspects of the “debt dispute” that arose between the respondent body corporate and the applicant whilst he owned a lot in the scheme.

[56] Sub-sections (2) – (5) of s 229A make it pellucidly clear that once, as occurred in this case, a body corporate has started a proceeding in a court of competent jurisdiction to recover a debt the subject of a “debt dispute”, that dispute may not be resolved under the dispute resolution provisions in Chapter 6 of the Act.

[57] It follows in these circumstances that sub-section 229(3) did not and does not preclude the applicant from relying upon his pleaded defence of set-off for two independent but related reasons:

- (a) Sub-section 229(3) has no application because, in the language of s 229(1), the parties' dispute is not one that "may be resolved under this chapter by a dispute resolution process".
- (b) Sub-section 229(3) renders the exclusivity of the dispute resolution process for which it provides subject to s 229A, and for a debt dispute that section allows litigation and excludes dispute resolution under Chapter 6.

[58] The same conclusion must be reached in relation to every potentially viable ground upon which the applicant sought to contest the respondent's claim. Justice Daubney's conclusion in *Body Corporate of the Lang Business CTS 5941 v Green*,¹¹ a decision which was cited by the respondent's counsel, is to the same effect.

¹¹ [2008] QSC 318 at [40] – [41].