

Conveyancing Service

New South Wales
CURRENT BPR AND CASENOTES

Service BPR 278

May 2022

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In this Service:

[98960] *Todarello Property Investments Pty Ltd v GJA Kalra Pty Ltd*
Land law — Leases — Options to renew — Whether breach of lease precludes lessee from exercising option to renew — Termination of lease — Whether lessee was “impacted lessee” — Whether failure to pay rent was during “prescribed period” — (NSW) Conveyancing Act 1919 s 133E — (NSW) Conveyancing (General) Regulation 2018 Sch 5 — (NSW) Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2020 — (NSW) Retail and Other Commercial Leases (COVID-19) Amendment Regulation 2021 — (NSW) Retail and Other Commercial

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In this Service — continued

Leases (COVID-19) Regulation 2020 — (NSW) Retail and Other Commercial Leases (COVID-19) Regulation (No 2) 2020.

[98961] *Turner (by his tutor Turner) v O'Bryan (in her capacity as the executrix of the estate of O'Bryan-Turner)*

Trusts — Trustees — Breach of fiduciary duty — Knowing receipt — Knowing assistance — Consideration of appropriate remedy where fiduciary has breached their duty by transferring property owned by their principal — Whether there would be utility in ordering taking of account of fiduciary's dealings with their principal's assets — Whether in personam exception to indefeasibility extends to proprietary claims made against alleged wrongdoers who are accused of having knowingly received trust property — Whether in personam exception to indefeasibility extends to proprietary claims made against wrongdoers who are accused of having knowingly assisted in breach of trust — Whether principal's conduct was dishonest when measured against ordinary standards of honest behavior — Whether recipients of trust property knew that property was transferred to them by principal in breach of her fiduciary duty — Whether honest and reasonable person in position of recipients of trust property would have deduced that fiduciary had acted in breach of her duty to principal — (NSW) Real Property Act 1900 s 42.

[98962] *Garawin Pty Ltd (ACN 074 380 715) v 1A Eden Pty Ltd (ACN 162 152 794)*

Real property — Torrens title — Caveats — Application to remove caveats — Real property development joint venture conducted through trustee company as trustee of unit trust — Plaintiff 50% interest holder in units in unit trust — Agreement to distribute profits in specie in form of lots of development — Distribution commenced but not completed — Building under development subject of defect proceedings — Trust faced with unexpected external liabilities — Further distribution suspended but plaintiff's permitted to mortgage undistributed lots — Freezing orders made by consent against lots to be distributed to second defendant — Lots distributed to third defendant — Caveats placed on all lots respect parties — Plaintiff seeks removal of caveats to enable distribution — Whether 25 March 2022 caveats bad in form — What if any ancillary relief should be granted if caveats are removed — (NSW) Real Property Act 1900 s 74MA(2).

Service issues to date

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Service BP 191 — September 2009	Service BP 203 — September 2011
Service BP 192 — November 2009	Service BP 204 — November 2011
Service BP 193 — December 2009	Service BP 205 — December 2011
Service BP 194 — March 2010	Service BP 206 — March 2012
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Service BP 196 — July 2010	Service BP 208 — July 2012
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Service BP 198 — November 2010	Service BP 210 — November 2012
Service BP 199 — December 2010	Service BP 211 — December 2012
Service BP 200 — March 2011	Service BP 212 — March 2013
Service BP 201 — May 2011	Service BP 213 — May 2013

Service issues to date — continued

Service BP 214 — July 2013
Service BP 215 — September 2013
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Service BP 217 — December 2013
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Service BP 278 — May 2022

Conveyancing

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