

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
BEFORE THE COURT OF APPEAL
CIVIL DIVISION

No. 2115/01

BETWEEN:

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION
PLAN PTY LTD** (ACN 065 590 178) (as trustee of the Ansett Australia
Ground Staff Superannuation Plan)

Appellant
(Plaintiff)

and

ANSETT AUSTRALIA LIMITED (Subject to a Deed of Company
Arrangement) **& ORS** (ACN 004 209 410)

Respondents
(Defendants)

AND BETWEEN:

ANSETT AUSTRALIA LIMITED (Subject to a Deed of Company
Arrangement) **& ORS** (ACN 004 209 410)

Cross Appellants
(Defendants)

and

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION
PLAN PTY LTD** (ACN 065 590 178) (as trustee of the Ansett Australia
Ground Staff Superannuation Plan)

Cross Respondent
(Plaintiff)

LIST OF AUTHORITIES

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PART A

CASES

1 *Attorney General (Cth) v Breckler* (1999) 197 CLR 83

2 *Bank of Queensland v KD Morris* (1978) 3 ACLR 870

3 *Community Development Pty Ltd v Engwirda Construction Co* (1969) 120

CLR 455

- 4 *Crest Insurance Company of Australia Ltd v Rosser* (1985) 10 ACLR 109.
- 5 *Federal Commissioner of Taxation v Gosstray* [1986] VR 876.
- 6 *Fisher v Madden* (2002) 54 NSWLR 179.
- 7 *Green v Giljohann* (1995) 17 ACSR 518.
- 8 *In re Toshoku Finance UK Plc* [2002] 1 WLR 671
- 9 *International Harvester Export Co v International Harvester Australia Ltd*
[1983] 1 VR 539
- 10 *K D Morris & Sons Pty Ltd (in liq) v Bank of Queensland* (1980) 146 CLR
165.
- 11 *Whitton v ACN 003 266 886 Pty Ltd (Controller Appointed) (In Liquidation)*
(1996) 42 NSWLR 123

LEGISLATION

- 12 *Corporations Act 2001* (Cth) - Section 9, Part 5.3A, Part 5.6
- 13 *Superannuation Industry (Supervision) Act 1993* (Cth) - Sections 16, 19, 31,
34, 42, 45, 55 and 130.
- 14 *Superannuation Industry (Supervision) Regulations 1994.* (Cth) -
Regulations 1.03, 5.08, Part 9

PART B**CASES**

- 15 *Associated Newspapers Ltd v Grinston* (1949) WN(NSW) 211.
- 16 *Byrne v Australian Airlines Limited* (1995) 185 CLR 410.
- 17 *Construction Industry Long Service Board v Irving* (1997) 74 FCR 587.
- 18 *Hawkins v Bank of China* (1992) 26 NSWLR 326.
- 19 *In re ABC Coupler and Engineering Co Ltd* (No. 3) [1970] 1 WLR 702.
- 20 *In re Bridgewater Engineering Co* (1879) 12 Ch D 181.
- 21 *In re Downer Enterprises Limited* [1974] 1 WLR 1460.
- 22 *In re Lancashire Cotton Spinning Co* (1887) 35 Ch D 656.
- 23 *In re Lundy Granite Co* (1871) LR 6 Ch App 462.
- 24 *In re Matthew Brothers (In Liquidation)* [1962] VR 262.
- 25 *In re Mesco Properties Limited* [1979] 1 WLR 558.
- 26 *In re Oak Pitts Colliery Company* (1882) 21 Ch D 322.
- 27 *In re Progress Assurance Co* (1870) LR 9 Eq 370.
- 28 *In re Universal Distributing Co Limited (In Liquidation)* (1933) 48 CLR 171.
- 29 *In the Matter of Pasminco Limited* (2002) 120 FCR 326.
- 30 *ITN v Ward & Ors* [1997] PLR 131
- 31 *Lansing Linde Ltd v Alber* [2000] PLR 58
- 32 *Lloyds Bank Pension Trust v Lloyds Bank* [1996] PLR 263
- 33 *Moodmere Pty Limited (In Liquidation) v Waters* [1988] VR 215.
- 34 *National Coal Board v Galley* [1958] 1 WLR 16.

- 35 *Price v Price* (1904) 29 VLR 719.
- 36 *R S Components Limited v Irwin* [1974] 1 All ER 41.
- 37 *Re Exhall Coal Mining Co Limited (1864)* 4 De G J and S 377.
- 38 *Re HIH Insurance Limited (In Liquidation)* (2001) 39 ACSR 645.
- 39 *Re Just Juice: James v Commonwealth Bank* (1992) 37 FCR 445.
- 40 *Riverwood International v McCormick* (2000) 177 ALR 193.
- 41 *Sipad v Popovic* (1995) 19 ACSR 108.
- 42 *Standard Chartered Bank of Australia Limited v Antico* (1995) 38 NSWLR 290.
- 43 *True v Amalgamated Collieries of WA Limited* [1940] AC 537.

LEGISLATION

- 44 *Companies (Victoria) Code* - Sections 414 and 441.
- 45 *Companies Act 1961* - Sections 213, 216, 275, 291 and 292.
- 46 *Corporate Law Reform Act 1992* (Cth) - Section 96.
- 47 *Corporations Law* (Cth) - Sections 419, 433, 512 and 566.
- 48 *Income and Corporation Taxes Act 1988* (UK) - Section 8(2).
- 49 *Income Tax Assessment Act 1936* (Cth) - Part 9.
- 50 *Insolvency Rules 1986* (UK) - Rule 4.218.
- 51 *Labour and Industry Act 1958* (Vic) - Section 154(1)(c).
- 52 *Occupational Superannuation Standards Act 1987* now known as the *Superannuation (Self Managed Superannuation Funds) Taxation Act 1987* (Cth) - Sections 5 and 7 are still in force by virtue of s 16(3)(a) & (b)

Occupational Standards Amendment Act 1993 (Cth)

- 53 *Occupational Superannuation Standards Regulations 1987 (Cth)* -
Regulations 3 and 8.
- 54 *Superannuation Guarantee (Administration) Act 1992 (Cth)* - Sections 10,
16, 17, 19, 20 and 22.
- 55 *Superannuation Guarantee (Administration) Regulations 1993 (Cth)* -
Regulations 2, 3 4 and 6.
- 56 *Superannuation Guarantee (Charge) Act 1992 (Cth)* - Section 5.
- 57 *Taxes Management Act 1970 (UK)* - Section 108

PART C***TEXTBOOKS & ARTICLES***

- 58 Butterworths, Halsbury's *Laws of Australia* Vol 6 (at 30 July 2003) Contract [110-2095].
- 59 Macken & Ors, *The Law of Employment*, (5th ed, 2002) 90-91, 249
- 60 McPherson, *The Law of Company Liquidation*, (4th ed, 1999) 574-576, 596
- 61 R M Goode, *Principles of Corporate Insolvency Law*, (1990) 59.
- 62 Ruth Stringer 'The Governing Rules', in Brown, RM and Edstein J V, *Australian Superannuation Practice - Commentary* (Looseleaf service) [400-310].