FEDERAL CIRCUIT COURT OF AUSTRALIA

LIVERPOOL PLAINS SHIRE COUNCIL v RUMBLE & ANOR

[2019] FCCA 2317

Catchwords:

BANKRUPTCY – Application for sequestration order – whether preconditions for making sequestration order satisfied – whether respondents are able to pay their debts – whether there is any sufficient cause why sequestration order ought not be made – sequestration order made.

Legislation:

Bankruptcy Act 1966 (Cth), ss.43, 47, 52, 156A

Bankruptcy Regulations 1996 (Cth), reg.16.01(1)(c)

Environmental Planning and Assessment Act 1979 (NSW), s.121B(1)(b)

Federal Circuit Court (Bankruptcy) Rules 2016 (Cth) rr. 4.02(2), 4.04(1), 4.05, 4.06

Legal Profession Uniform Law Act 2014 (NSW), s.194

Local Government Act 1993 (NSW), ss.713, 715

Cases cited:

Australian Prudential Regulation Authority v Cameron & Anor [2007] FCA 628

Burrell v Reavill Farm Pty Ltd & Ors [2014] FCCA 144

Drake v Stanton [1999] FCA 1635

Glew v Harrowell [2003] FCA 373

Lee and Robert Rumble v Liverpool Plains Shire Council & Ors [2012] NSWDC 95

Lee and Robert Rumble v Liverpool Plains Shire Council & Ors [No.2] [2012] NSWDC 99

Liverpool Plains Shire Council v Rumble [2013] NSWLEC 118

Liverpool Plains Shire Council v Rumble (No 2) [2014] NSWLEC 13

Liverpool Plains Shire Council v Rumble (No 3) [2014] NSWLEC 139

Rumble v Liverpool Plains Shire Council [2015] NSWCA 125

Skalkos v T & S Recoveries Pty Ltd [2004] FCAFC 321

T & S Recoveries Pty Ltd v Skalkos [2004] FCA 816

Applicant:

LIVERPOOL PLAINS SHIRE COUNCIL

First Respondent:

ROBERT GEORGE RUMBLE

Second Respondent:

LEE RUMBLE

File Number:

SYG 3194 of 2018

Judgment of:

Judge Manousaridis

Hearing date:

8 May 2019

Date of Last Submission:

8 May 2019

Delivered at:

Sydney

Delivered on:

23 August 2019

REPRESENTATION

Counsel for the Applicant:

Mr J T Johnson

Solicitors for the Applicant:

O'Neill Partners Commercial Lawyers

Respondents in person

THE COURT ORDERS THAT:

(1) The estate of Robert George Rumble is sequestrated under the *Bankruptcy Act 1966* (Cth).

(2) The estate of Lee Rumble is sequestrated under the *Bankruptcy Act 1966* (Cth).

(3) The applicant creditor's costs (including reserved costs) be taxed and paid from the estates of the respondent debtors in accordance with the *Bankruptcy Act 1966* (Cth).

THE COURT NOTES THAT:

(4) The date of the act of bankruptcy in relation to both Robert George Rumble and Lee Rumble is 25 October 2018.

(5) The consent to act as trustee signed by Giles Geoffrey Woodgate has been filed under s.156A of the *Bankruptcy Act 1966* (Cth).

(6) A copy of this order is to be provided to the official receiver in Sydney within two business days.

(1) **FEDERAL CIRCUIT COURT**

OF AUSTRALIA

AT Sydney

SYG 3194 of 2018

Liverpool Plains Shire Council

Applicant

And

Robert George Rumble

First Respondent

Lee Rumble

Second Respondent

REASONS FOR JUDGMENT

Introduction

1. Before the Court is a creditor's petition presented by Liverpool Plains Shire Council (**Council**) seeking a sequestration order under s.52 of the *Bankruptcy Act 1966* (Cth) (**Act**) in relation to each of the estates of Mr and Ms Rumble.

2. Before the Court can make a sequestration order it must be satisfied that the matters specified in s.43 and s.52(1) of the *Bankruptcy Act 1966* (Cth) (**Act**) are proved. These include the Court being satisfied that the person to whom the creditor's petition is presented has committed an act of bankruptcy. The Court must also be satisfied that the relevant provisions of the *Federal Circuit Court (Bankruptcy) Rules 2016* (Cth) (**Bankruptcy Rules**) have been complied with, subject to the Court's discretion to dispense with compliance of those rules. If the Court is satisfied with the proof of the matters specified in s.43 and s.52(1) of the Act, and that the requirements of the Bankruptcy Rules have been met (or their compliance is otherwise dispensed with), the Court may make a sequestration order. If the Court is not so satisfied it must dismiss the petition, or if, under s.52(2) of the Act, the Court "*is satisfied by the debtor (a) that he or she is able to pay his or her debts; (b) that for some other sufficient cause a sequestration order ought not be made*", the Court may dismiss the petition.

3. The acts of bankruptcy on which the Council relies is the failure by each of Mr and Ms Rumble to comply with the requirements of a bankruptcy notice issued against them jointly on 21 September 2018. The bankruptcy notice demands payment of $62,457.49. That is the sum of a judgment for $53,874.19 the Council arranged to be entered in the Local Court of New South Wales (**Judgment**) on 10 August 2016 and interest of $8,583.30 that has accrued on the Judgment. The Judgment was entered in response to the Council filing with the Local Court certificates of determination of costs that were issued in relation to orders for costs made in favour of the Council in proceedings between the Council and Mr and Ms Rumble.

4. The Council also claims Mr and Ms Rumble are indebted to it in the amount of $121,386.57. That is the amount of a judgment the Council arranged to be entered in the District Court of New South Wales (**DC Judgment**). That, in turn, is the sum of the amounts of costs assessed under certificates of determination of costs that were issued in relation to orders for costs made against Mr and Ms Rumble in favour of the Council in a number of proceedings.

5. With one exception, Mr and Ms Rumble do not dispute that the preconditions for making a sequestration order, either those provided for by the Act or by the Bankruptcy Rules, have been met. The exception relates to the service of the bankruptcy notice on Ms Rumble. Mr and Ms Rumble, however, rely on a number of grounds for contending that the Court ought not to make sequestration orders in relation to their estates. In these reasons for judgment, therefore, I consider whether the Council has established the preconditions for the making of sequestration orders and, if so, whether any of the grounds on which Mr and Ms Rumble rely afford a sufficient cause for my not making a sequestration order.

6. Before I consider these matters, it would be useful to set out the circumstances out of which the Council obtained the costs orders which, in time, resulted in the Judgment and in the DC judgment, and the circumstances relevant to the grounds on which Mr and Ms Rumble rely for opposing the making of a sequestration order. As will be seen, the relevant circumstances are largely to be found in the proceedings Mr and Ms Rumble and the Council commenced against each other.

Background

7. From 1992 Mr and Ms Rumble operated a business known as "*Quirindi Auto Spares*" at a property situated at 326 Loder Street Quirindi. In 2005 the property was sold to the Council. Following the sale Mr and Ms Rumble moved some of their second-hand motor vehicles from their business to their home at 69 South Street Quirindi (**South Street Property**). They continued to store vehicles on that property after Mr and Ms Rumble acquired a property at 73 Henry Street Quirindi from which they conducted a business under the name of "*B L Cars*".

8. This state of affairs appears to have continued until 30 July 2009. On that day two officers of the Council attended the South Street Property and served on Mr Rumble what purported to be a notice issued under s.121(1b) of the *Environmental Planning and Assessment Act 1979* (NSW) (**EPP Act**). The notice purported to order that Mr Rumble, as the owner of the South Street Property, cease using that property as a second-hand car yard, and also to remove all unregistered vehicles from the property. The notice alleged that the purpose for which Mr Rumble was using the South Street Property required development consent which Mr Rumble had not obtained. On 13 August 2009 two Council officers attended the South Street Property with two police officers and, in the face of protest by Mr Rumble, the officers entered the property. The officers, over a period of two days, then used tow trucks and trailers to remove vehicles, trailers, and car wrecks from the South Street Property.

9. Mr and Ms Rumble commenced proceedings in the District Court of New South Wales against the Council for damages for trespass. Their claim was tried before Mahony SC DCJ in May 2012. The Council conceded that the notice purportedly issued under the EPP Act was invalid, and the actions by which the two Council officers entered the South Street Property and removed the vehicles and trailers constituted a trespass. Mahony SC DCJ found that the trespass was extensive, it took place over a period of two days, and it involved numerous Council employees and sub-contractors coming onto the South Street Property to physically remove Mr and Ms Rumble's property. His Honour awarded damages in favour of Mr and Ms Rumble which, after setting off a judgment on an uncontested cross-claim brought by the Council against Mr Rumble and Ms Rumble for unpaid rates, amounted to $11,567.58 and $24,866.85 respectively. His Honour also ordered that the Council pay the costs of Mr and Ms

Rumble. His Honour later modified the costs order in a manner that is unnecessary to set out here. At the hearing before me Ms Rumble said that the Council paid the costs ordered against it to Mr and Mss Rumble's lawyer who used the money paid to him to cover the fees Mr and Ms Rumble agreed to pay to him.

10. In 2013 the Council commenced a proceeding against Mr and Ms Rumble in the Land and Environment Court of New South Wales (**LE Court**) for orders requiring them to remove all vehicles from the South Street Property, and restraining them from using that property as "*commercial premises*", "*transport depots*", "*vehicle body repair workshops*", "*vehicle repair stations*", or as "*waste or resource management facilities*", as each of these expressions were defined in the *Liverpool Plains Local Environmental Plan 2011*. As noted in the reasons for judgment of Biscoe J, Mr and Ms Rumble did not appear at the hearing of that matter, but they submitted material before the hearing in which they asserted two things. The first is the philosophy that they have a right to do what they want on their land provided only that it does not infringe the rights of others; and the second was that Mr and Ms Rumble are not subject to the laws of New South Wales, or the authority of the Council, or of the courts, because they have constituted their land as "*The Independent Sovereign State of Australia*". Biscoe J did not accept these assertions and, on 25 July 2013, made the orders the Council sought. His Honour also ordered that Mr and Ms Rumble pay the Council's costs of the proceeding.

11. On 20 November 2013 the Council filed a notice of motion with the LE Court seeking orders that Mr and Ms Rumble be punished for contempt. The contempt Council alleged was that Mr and Ms Rumble failed to comply with the order Biscoe J made on 25 July 2013 that they remove all vehicles from the South Street Property. Mr and Ms Rumble did not appear on the return of the notice of motion for contempt on 19 February 2014. Pain J decided to hear the matter ex parte on the question of whether the Council can establish a prima facie case of contempt but, if the Council does establish a prima facie case, to determine on a later occasion the seriousness of the contempt, and the consequential punishment that should be imposed. Her Honour found that the contempt of court had been proved, but decided not to make a finding of whether the contempt was wilful or contumacious, noting that her Honour would give Mr and Ms Rumble an opportunity

to come before the LE Court to explain their actions, including their attempts to purge their contempt.

12. The balance of the notice of motion for contempt came before Pain J on 26 May 2014. Mr and Ms Rumble appeared at that hearing. Her Honour heard evidence and submissions, after which her Honour made orders convicting each of Mr and Ms Rumble of the charge of contempt as particularised in the statement of charge that accompanied the notice of motion for contempt, and imposed fines on each of Mr and Ms Rumble. Pain J also ordered that Mr and Ms Rumble pay the Council's costs on an indemnity basis as agreed or as assessed.

13. Mr and Ms Rumble applied to the Court of Appeal of the Supreme Court of New South Wales to set aside the orders of Biscoe J and Pain J. On 12 May 2015 the Court of Appeal, by majority, dismissed their application, and ordered that Mr and Ms Rumble pay the Council's costs.

Proof of matters specified in s.52(1) of Act

14. As I have already noted, the act of bankruptcy on which the Council relies is each of Mr and Ms Rumble's failure to comply with the requirements of a bankruptcy notice.

Service of the bankruptcy notice

15. Mr Rumble does not dispute that he was personally served with the bankruptcy notice on 4 October 2018; and I am satisfied Mr Rumble was so served on that day. The Council does not suggest that Ms Rumble was served personally with the bankruptcy notice. The Council submits Ms Rumble was properly served with the bankruptcy notice in the manner set out in an affidavit Mr Hennessy made on 5 October 2018.

16. According to Mr Hennessey, on 4 October 2018 he placed the bankruptcy notice and the documents attached to it into a sealed envelope addressed to Ms Rumble, and placed the envelope in the mailbox at the South Street Property. Mr Hennessey further says that before he placed the envelope in the mailbox he spoke to the daughter of Mr and Ms Rumble and asked whether "*Lee Rumble is here*". The daughter replied: "*No she isn't, she has gone to Tamworth shopping and won't be back until later this afternoon*". The Council submits that

the South Street Property was "*the last-known address of*" Ms Rumble within the meaning of reg.16.01(1)(c) of the *Bankruptcy Regulations 1996* (Cth) (**Regulations**) and, for that reason, by leaving the envelope containing the bankruptcy notice in the mailbox at that property Ms Rumble was served with the bankruptcy notice.

17. Ms Rumble does not dispute that on 4 October 2018 Mr Hennessey left an envelope containing the bankruptcy notice at the mailbox on the South Street Property. She submitted that at that time her children resided in that property, and that Ms Rumble was living with her mother. I asked her whether there was any evidence about that. Ms Rumble initially said that she could show me her pension card. I said I wanted to know whether she had said anything in any of her affidavits about her living with her mother. Ms Rumble said "*it's in my affidavit*", but then said "*I think it's my submissions*". Ms Rumble said "*I always use my daughter's address when I'm doing any legal paper work*", adding that "*I don't like paperwork going to my mum; she's 74 years old*". Ms Rumble also said that she and Mr Rumble had separated in 2012, and decided that instead of selling the South Street Property they would give it to their children. Ms Rumble made these statements from the bar table, but I am prepared to treat these statements as having been given under oath.

18. The question that arises is whether, at the time Mr Hennessey placed the envelope containing the bankruptcy notice into the mailbox of the South Street Property, that property was the "*the last-known address*" of Ms Rumble within the meaning of reg.16.01(1)(c) of the Regulations. That is so because reg.16.01 provides for the means by which a document the Act requires to be given or sent to or served on a person is to be taken to have been given or sent to or served on a person; and one of those means is that provided for by reg.16.01(1)(c), namely, by leaving the document in an envelope or similar packaging marked with the person's name and any relevant document "*at the last-known address of the person*". Regulation 16.01 applies to the service of bankruptcy notices, because a bankruptcy notice is a class of document which the Act requires to be served on a person.

19. The expression "*last-known address*" was considered by Tamberlin J in in *Drake v Stanton*, where his Honour said:

> *In my view, on the language of reg 16.01(1)(c), the reference to "last-known address of the person" is to that address which has been made known by the applicant as at the time closest to the date in question. In the present case the evidence indicates clearly that the address which was last asserted by the applicant was the address at 396 Grey Street. The applicant has not been called to give any evidence to the contrary.*

20. I am satisfied that the South Street Property was the last-known address of Ms Rumble. I particularly rely on Ms Rumble's statement that she used that address because she did not want her mother to receive any documents. That implies two things. First, Ms Rumble intended to communicate to the Council that the South Street Property was the property at which the Council should provide to her legal documents. Second, Ms Rumble did not want to communicate to the Council that she in fact resided at her mother's address, because that would lead the Council to send legal documents there, which is something Ms Rumble did not want. Given the South Street Property is a residential home, and Ms Rumble has not suggested she has lived anywhere other than at the South Street Property until around 2012, and at her mother's property after around 2012, it is reasonably open to find, and I do find, that the South Street Property was "*the last-known address of*" Ms Rumble at the time Mr Hennessey left the envelope containing the bankruptcy notice in the mailbox at the South Street Property. I find, therefore, that Ms Rumble was served with the bankruptcy notice on 4 October 2018.

Acts of bankruptcy

21. There is no question that Mr and Ms Rumble did not comply with the requirements of the bankruptcy notice. That means that each of Mr and Ms Rumble committed an act of bankruptcy on 25 October 2018, being the last day of the 21 day period after service of the bankruptcy notice by which the requirements of the bankruptcy notice had to be complied with.

Other requirements

22. The Council filed a creditor's petition on 16 November 2018. The application has been filed in accordance with the prescribed form, and, as required by s.47 of the Act and r.4.02(2) of the Bankruptcy Rules,

an affidavit verifying the creditor's petition was filed. The Council also filed at the time it filed the creditor's petition an affidavit required by r.4.04(1)(a) of the Bankruptcy Rules, and, as required by r.4.04(1)(b), affidavits of service of the bankruptcy notice. In addition, the Council filed a "*Trustee Consent to Act Declaration*" signed by Mr Giles Geoffrey Woodgate.

23. As required by r.4.05 of the Bankruptcy Rules, the creditor's petition was served on each of Mr and Ms Rumble on 12 December 2018, being more than five days before the date fixed for the hearing of the creditor's petition, together with the affidavit required by r.4.04(1)(a) of the Rules, and the affidavit of service of the bankruptcy notice. Finally, at the hearing on 8 May 2019, I read an affidavit of debt, being an affidavit that under r.4.06(4) of the Bankruptcy Rules must be made as soon as practicable before the hearing date for the creditor's petition, and also an affidavit of search, as required by r.4.06(3) of the Bankruptcy Rules.

24. In these circumstances, I am satisfied the Council has proved the matters it is required to prove under s.43 and s.52(1) of the Act and that, subject to the matters on which Mr and Ms Rumble rely, sequestration orders should be made in relation to the estates of Mr Rumble and Ms Rumble.

Matters on which Mr and Ms Rumble rely

25. Mr and Ms Rumble have each filed a Notice Stating Grounds of Opposition (**Notices of Opposition**), and the grounds stated in each are identical. In addition, Mr and Ms Rumble have filed affidavits which were read at the hearing, and they relied on written submissions dated 3 May 2019 (**Written Submissions**).

Ground 1 of Notices of Opposition

26. Ground 1 of each of the Notices of Opposition states: "*Contact was made within the time frame* [sic] *of receiving the Bankruptcy Notice*". This is intended to be a reference to an email Mr and Ms Rumble sent to the Council's lawyers on 22 October 2018. In that email Mr and Ms Rumble offered to transfer to the Council the title to a particular property in Quirindi. The Council, however, rejected that offer in an email from its lawyers to Mr and Ms Rumble on 2 November 2018.

27. This ground by itself does not constitute a sufficient cause for refusing to make a sequestration order.

Ground 2 of Notices of Opposition

28. Ground 2 of each of the Notices of Opposition states: "*I have a Counter Claim from District Court Proceedings in 2012*". The nature of the cross-claim or claims each of Mr and Ms Rumble say they have against the Council is set out in the Written Submissions, and in each of their affidavits made on 8 January 2019, where they refer to number of matters.

a) One is the claims they made in relation to the circumstances that led to their commencing the proceedings in the District Court to which I have already referred. In the Written Submissions Mr and Ms Rumble refer to their solicitor having informed them that the Council would have to pay their costs.

b) Second, Mr and Ms Rumble refer to the proceedings the Council commenced against Mr and Ms Rumble in the LE Court, and to their appeal to the Court of Appeal.

c) Third, Mr Rumble refers to an advertisement that was placed in the local newspaper in December 2017 for the sale of two properties for unpaid rates. Mr Rumble deposes that he had received no letters, and he was paying the rates every fortnight. Mr Rumble asked rhetorically: "*is there not a law that says if you ridicule someone in public by trying to humiliate them then that debt can be seen as paid and should this not be a breach of ones* [sic] *privacy*".

d) Fourth, Ms Rumble refers to an incident in March 2017 when "*the creditor affiliated with a Tamworth Sheriff Officer Mr Tom Kline*" removed Ms Rumble's motor vehicle that was parked outside the South Street Property without being given any court order. Ms Rumble deposes that the Council gave authority to the "*Sheriff's department to sell*" her motor vehicle. Ms Rumble later was told that her vehicle was taken because she owed the Council money, but Ms Rumble had received no invoice or bill to show either she or Mr Rumble owed the Council money. Ms Rumble said the "*Sheriff's department*" gave her "*the alleged amounts that we are supposed to owe them*". She then "*did some research*

into our Currency Act and found that Promissory Notes are still classified as legal tender so I got them done 3 actually and sent off to the . . . Sheriff's Department". Ms Rumble says that one of the promissory notes was for $126,371.30 alleged to be owed to the Council, another was for $19,707.77 for an alleged amount owing to the Council for outstanding rates, and a third for $45,214.06 being an amount her current partner alleged to have owed to the Council.

e) Fifth, in January 2018 the Council placed a water restrictor device onto the water supply at the South Street Property.

29. Whether or not Mr or Ms Rumble have a cross-claim against the Council is relevant to whether they have committed the act of bankruptcy prescribed by s.40(1)(g) of the Act. That paragraph provides that a debtor will commit an act of bankruptcy if he or she does not comply with the requirements of a bankruptcy notice unless the person "*has a counter-claim, set-off or cross demand equal to or exceeding the amount of the judgment debt or sum payable under the final order, as the case may be, being a counter-claim, set-off or cross demand that he or she could not have set up in the action or proceeding in which the judgment or order was obtained*". That Mr and Ms Rumble may have a counter-claim may also constitute some other sufficient cause for not making a sequestration order. The matters of which a court must be satisfied before it can be satisfied that a debtor has a counter-claim, set-off or cross demand against the creditor have been stated in different ways, and in ways that sometimes overlap. The various statements were summarised by Lindgren J in *Glew v Harrowell*. In general terms, a debtor must satisfy the Court that the counter-claim, set-off or cross demand is made in good faith, and that there is sufficient substance to the counter-claim, set-off or cross demand asserted to make it one which the debtor should, in justice, be permitted to have heard and determined in the usual way, rather than be forced to comply with the bankruptcy notice by payment or to commit an act of bankruptcy.

30. In my opinion, the matters to which Mr and Ms Rumle refer, whether considered alone or together, do not suggest they have or may have any counter-claim, set-off, or cross demand against the Council, or any counter-claim, set-off, or cross demand of sufficient substance,

or if they do have any such counter-claim, set-off, or cross demand it would equal or exceed the amount of the Judgment.

a) Mr and Ms Rumble's claims against the Council for damages for trespass have been determined by the judgment of Mahony SC DCJ; and, on the evidence before me, the Council paid the amount of the damages awarded in favour of Mr and Ms Rumble, as well as costs.

b) That the Council applied for and obtained orders in the LE Court against Mr and Ms Rumble does not ground any counter-claim, set-off or cross demand against the Council. The Council succeeded in obtaining the orders from the LE Court, and the Court of Appeal dismissed Mr and Ms Rumble's application to set aside those orders.

c) That the Council may have placed in the local newspaper in December 2017 an advertisement for the sale of two properties for unpaid rates, or the Council set in motion the events that led to Ms Rumble's vehicle being seized, or that the Council placed a water restrictor device onto the water supply at the South Street Property, do not by themselves suggest the Council acted unlawfully or, if it acted unlawfully, that such conduct gave rise gave rise to a counter-claim, set-off or cross demand against the Council.

31. For these reasons, ground 2 of the Notice of Opposition does not constitute a sufficient cause for refusing to make a sequestration order.

Ground 3 of Notices of Opposition

32. Ground 3 of each of the Notices of Opposition states: "*I have asked the Creditor for a true Copy of the said Bill or Invoice for the alleged debt they say I owe*". In their affidavits of 8 January 2019 both Mr and Ms Rumble depose that they asked the Council for the "*bill or invoice that says I owe this alleged debt*". This is directed to the debt that is the subject of the bankruptcy notice. Mr and Ms Rumble then refer to s.194 of the *Legal Profession Uniform Law (NSW)* which provides that a law practice must not commence proceedings to recover legal costs.

33. Section 194 of the *Legal Profession Uniform Law (NSW)* does not apply to the circumstances of this case. The Judgment does not represent a remedy that has been granted in aid of an action lawyers have taken against Mr and Ms Rumble. The Judgment represents the costs to which the Council is entitled under the costs orders made in the LE Court.

34. Ground 3 of the Notice of Opposition, therefore, also does not constitute a sufficient cause for refusing to make a sequestration order.

Ground 4 of Notices of Opposition

35. Ground 4 of each of the Notices of Opposition states: "*Placing themselves onto the Deed of Property by way of writ without owners consent or knowledge is that even lawful*". Although not clear, this appears to be a complaint about the Council's attempt to recover its judgment debt by execution. There is nothing in the material before me, however, that could reasonably suggest that the Council acted unlawfully in the manner in which it sought to levy execution on any property owned by Mr or Ms Rumble.

36. Ground 4 of the Notice of Opposition, therefore, also does not constitute a sufficient cause for refusing to make a sequestration order.

Ground 5 of Notices of Opposition

37. Ground 5 of each of the Notices of Opposition states: "*Attaching document onto a Court Order after the Order was signed and sealed without proper confirmation from the Court*". This ground does not identify the order to which it is intended to refer, or the document that is said to have been attached to such order, or the confirmation the Court was required to give, or, to the extent a purported confirmation had been given, the reason why such confirmation was not proper.

38. Ground 5 of the Notice of Opposition also does not constitute a sufficient cause for refusing to make a sequestration order.

Ground 6 of Notices of Opposition

39. Ground 6 of each of the Notices of Opposition states: "*How can Court or Solicitors change previous statement in Court and state new statement without hearing the evidence*". This does not constitute a sufficient cause for refusing to make a sequestration order. The ground

does not identify the previous statement it asserts had been changed, or the new statement that had been made in its place, or the court or proceeding in which it is alleged these things occurred.

Ground 7 of Notices of Opposition

40. Ground 7 of each of the Notices of Opposition states: "*Breach of privacy in 2017 for placing my name with an amount they alleged was owed in the local newspaper under a public notice heading*". That appears to be a reference to a public notice the Council published pursuant to s.715 of the *Local Government Act 1993* (NSW) (**LG Act**).

41. This also does not constitute a sufficient cause for refusing to make a sequestration order. First, the Council issued the notice under s.715 of the LG Act which requires the Council to give notice of its intention to sell land it has otherwise resolved under s.713 of the LG Act to sell because rates and charges had not been paid in relation to the land. Second, even if the publication breached some legal obligation it may have owed to Mr and Ms Rumble, there is nothing that could suggest or reasonably suggest that such breach has given rise to a counter-claim, set-off or cross demand equal to or exceeding the amount of the Judgment.

Ground 8 of Notices of Opposition

42. Ground 8 of each of the Notices of Opposition states: "*Breach of Human Rights when the applicant places a restrictor onto the flow of water in a hot summer and knowing there is a child on the premises*". This does not constitute a sufficient cause for refusing to make a sequestration order. First, there is nothing to suggest that by placing a water restrictor onto the South Street Property the Council breached any duty it may have owed Mr or Ms Rumble. Second, even if the Council breached any duty it may have owed to Mr and Ms Rumble, there is nothing that could suggest or reasonably suggest that such breach has given rise to a counter-claim, set-off or cross demand equal to or exceeding the amount of the Judgment.

Ground 9 of Notices of Opposition

43. Ground 9 of each of the Notices of Opposition states: "*I am seeking with the Courts* [sic] *permission, trespass to person, trespass,*

to property, and trespass to goods since 2004". This does not constitute a sufficient cause for refusing to make a sequestration order. To the extent the asserted trespass relies on the matters that are the subject of the judgment of Mahony SC DCJ, and the orders made by the LE Court, those matters have been determined, some in favour of Mr and Ms Rumble, and others not in their favour. To the extent Mr and Ms Rumble rely on other matters, they have not identified those matters; nor have they identified material on the basis of which it could reasonably be held they give rise to a counter-claim, set-off or cross demand equal to or exceeding the amount of the Judgment.

Ground 10 of Notices of Opposition

44. Ground 10 of each of the Notices of Opposition states: "*I am also using my rights at Law under the Magna Carta Clause 39 and Clause 40*". This does not constitute a sufficient cause for refusing to make a sequestration order. First, these provisions do not apply of their own force in New South Wales. Second, even if they did apply, they would not be engaged by the facts of the case before me. Third, even if engaged, they would not give rise to a counter-claim, set-off, or cross demand equal to or exceeding the amount of the Judgment

Ground 11 of Notices of Opposition

45. Ground 11 of each of the Notices of Opposition states:

> *I am using my rights under the Australian Constitution Act 1900 (UK) Section 51 Clause 20, section 116, section 117, section 118 and section 119. I am also asking the Court permission again to acknowledge my right to ask for the true invoice or the true Bill for the alleged debt they claim I owe.*

46. Nothing in this ground constitutes a sufficient cause for refusing to make a sequestration order. The sections of the *Constitution* are not engaged by the facts of this case. And Mr and Ms Rumble asking for details of the bill or invoice on the basis of which the Judgment has been entered is not relevant to their liability under the Judgment. The Judgment was entered in response to the Council filing with the Local Court certificates of assessment which had been issued in response to the Council's application to have assessed the costs which Pain J ordered Mr and Ms Rumble pay the Council.

Ground 12 of Notices of Opposition

47. Ground 12 of each of the Notices of Opposition states:

> *I ask tht [sic] the Applicant bring forward a man or woman to the Court with the actual birth name of Liverpool Plains Shire Council who has the true name and who will verify under Oath of affirmation, in an open Court they have the true alleged Bill of the alleged debt they claim I allegedly owe, without that true bill before open Court that is verifiable, then the applicant is making a false claim and can be sued for doing me harm.*

48. This ground does not constitute a sufficient cause for refusing to make a sequestration order. It incorrectly assumes there is no proof before the Court that Mr and Ms Rumble owe the Council the amount stated in the Judgment, and that the Council is in any event required to prove that debt by some person on its behalf swearing or affirming the amount of the debt. The debt is evidenced by the Judgment; Mr and Ms Rumble have not claimed that the costs assessment on the basis of which the Judgment was entered is liable to be set aside; and an officer of the Council has sworn that the amount of the Judgment has not been paid.

Ground 13 of Notices of Opposition

49. Ground 13 of each of the Notices of Opposition states:

> *I would like to ask the creditors* [sic] *Solicitor on file if they have first hand knowledge of the alleged debt I owe, presumptions at law can not happen without first hand knowledge of the alleged debt, then they can also be seen to be doing me harm and may be sued.*

50. Ground 13 repeats the substance of ground 12 except that it is directed to the Council's solicitor producing first hand evidence of the debt the Council claims Mr and Ms Rumble owe it. As I have already noted, the debt is evidenced by the Judgment; Mr and Ms Rumble have not claimed that the costs assessment on the basis of which the Judgment was entered is liable to be set aside; and an officer of the Council has sworn that the amount of the Judgment has not been paid.

Ground 13 also, therefore, does not constitute a sufficient cause for refusing to make a sequestration order.

Grounds 14 and 15 of Notices of Opposition

51. Grounds 14 and 15 of each of the Notices of Opposition state:

> *14. I would like to acknowledge the Court to my Citizenship status as a Citizen of the Federal Independent Sovereign State Of Australia, our geographical location is North, South, East and West of Australia, as far as the sea that surrounds the land.*
>
> *15. I would also like to acknowledge the Court with a receipt for payment from the Creditor accepting my Citizenship right and acknowledging the States* [sic] *existence.*

52. It is apparent that these grounds seek to make something out of the assertions that there is an entity called the "*Federal Independent Sovereign State of Australia*", and that Mr and Ms Rumble are citizens of Australia. These assertions do not constitute a sufficient cause for refusing to make a sequestration order. I need only refer to the following judgment of Kiefel J in *Australian Prudential Regulation Authority v Cameron & Anor*:

> *This is not the first time that such an argument has been raised in Australian courts. Goldberg J, in Australian Competition and Consumer Commission v Purple Harmony Plates Pty Ltd (2001) FCA 1062 at [28], pointed out that the Commonwealth Constitution recognises the Commonwealth and the States and Territories as the only entities in the federal polity known as the Commonwealth. An area of land cannot cease to be part of a State, except pursuant to s 123 of the Constitution. There are no other constitutional means available for the establishment of a separate political community in Australia. The property said to be that of the independent sovereign state here, upon which the bank conducts its business and in respect of which Mr Cameron and Mr Wheeley are said to be citizens, remains part of Australia.*

Ground 16

53. Ground 16 of each of the Notices of Opposition states:

There are further points to be addressed under the affidavit that is filed with this notice please.

54. The affidavits to which the Notices of Opposition refer are affidavits made by each of Mr and Ms Rumble on 8 January 2019. I have already referred to those affidavits and they contain no ground that I have not already identified and addressed.

Other matters

55. At the hearing before me I asked Ms Rumble to tell me in her own words why "*are we at this state of things when you're facing a sequestration order, and on what grounds are your resisting*" the sequestration order. Ms Rumble referred to events commencing in 2004, and stated that since 2005 it is like the Council has been carrying out a vendetta against Mr and Ms Rumble. Ms Rumble said that she and Mr Rumble had placed before the Court (by which I now understand Ms Rumble intended to refer to the LE Court) information to show that Mr Rumble was storing collectable cars on his property. Ms Rumble also claimed the Council manipulated the courts all the way through to get their ends. There is no evidence to support the allegation of manipulation; and if, as Ms Rumble asserted, Mr Rumble did provide information to the LE Court which Mr Rumble claimed showed he was storing collectable cars on his property, there is nothing to suggest the LE Court overlooked that evidence.

Conclusion

56. Whether considered alone or together, the matters on which Mr and Ms Rumble rely do not constitute a sufficient cause for refusing to make a sequestration order.

Conclusion and disposition

57. I propose to make an order sequestrating each of the estates of Mr and Ms Rumble. I also propose to order that the Council's costs (including reserved costs) be taxed and paid from the estates of Mr and Ms Rumble in accordance with the Act. The order should be understood as rendering the estates jointly and severally liable for the Council's costs.

I certify that the preceding fifty-seven (57) paragraphs are a true copy of the reasons for judgment of Judge Manousaridis

Associate:

Date: 23 August 2019