

COURT OF APPEAL

[1995] QCA 376

DAVIES JA
MOYNIHAN J
FRYBERG J

Appeal No 26 of 1995

ALAN GEORGE SKYRING

Appellant

and

AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

Respondent

Appeal No 56 of 1995

ALAN GEORGE SKYRING

Appellant

and

KENNETH MICHAEL O'SHEA
CROWN SOLICITOR

Respondent

BRISBANE

..DATE 07/08/95

JUDGMENT

DAVIES JA: These matters were heard together. The first of them is a purported appeal from an order of a Magistrate striking out a statement of claim in an action by Mr Skyring against Australia and New Zealand Banking Group Ltd. The only right of appeal against such an order is pursuant to section 11A(b)(ii) of the Magistrates Court Act 1921 to the District Court.

The appeal to this Court is therefore incompetent and should, for that reason, be struck out. However, it is important to say that the purported appeal raises questions which have now, on many occasions, been argued by Mr Skyring, and at least one other, and rejected by the High Court, by this Court, and by the Federal Court.

It is sufficient to mention, by way of example only, Skyring's application No 2, (1985) 59 ALJR 561; In the Matter of an Application by Alan George Skyring (High Court of Australia, unreported, 9 July 1985); re Cusack (1986) 60 ALJR 302; Skyring v. Australia and New Zealand Banking Group Ltd (Court of Appeal No 176 of 1993, 12 May 1994, unreported); and re Skyring (1994) 68 ALJR 618.

In the last of those matters Justice Dawson said at 619, "It would, in my view, be an abuse of process to allow the applicant to re-litigate a matter which has already been decided adversely to him."

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Mr Skyring has now been declared a vexatious litigant by the High Court of Australia and in this Court in a matter secondly under appeal. It would, in my view, be an abuse of process to allow him to re-litigate the matters, the subject of this purported appeal.

The same is true of the second appeal before this Court which is against an order declaring Mr Skyring to be a vexatious litigant. I have looked carefully at the reasons of the learned Judge who made the order and agree with her entirely. Time has long passed when it is necessary to set out and reject once again the arguments of this appellant. The appeal, in my view, must be dismissed.

MOYNIHAN J: I agree.

FRYBERG J: I also agree.

DAVIES JA: The appeal in the matter of Australia and New Zealand Banking Group is struck out. The appeal in the other matter is dismissed.

MR DAVIES: I would be seeking costs of the appeal, Your Honour.

DAVIES JA: What do you want to say to that, Mr Skyring?

APPELLANT: Well, this brings us right back to what brought the whole thing up - this present action.

DAVIES JA: Forget about the argument on Magna Carta and costs, Mr Skyring. Is there any other reason apart from that?

APPELLANT: Well, it is a simple matter, how am I going to

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pay them lawfully? This is the point. I cannot do it. And that is my point.

DAVIES JA: All right, thank you. With costs.

MR DAVIES: Thank you, Your Honour.

MR McKENNA: The respondent Crown Solicitor also asks for costs.

DAVIES JA: Same argument, Mr Skyring?

APPELLANT: Yes.

DAVIES JA: Yes, with costs.

JUDGMENT