

[1993] QCA 118

COURT OF APPEAL

McPHERSON JA
PINCUS JA
SHEPHERDSON J

Appeal No 230 of 1992

ALAN GEORGE SKYRING

Appellant

and

AUSTRALIA & NEW ZEALAND BANKING GROUP

Respondent

BRISBANE

..DATE 25/03/93

JUDGMENT

250393

McPHERSON JA: On 17 December 1990 Mr Justice Dowsett in the Supreme Court struck out action No 3358 of 1987, it being an action brought by the appellant against the Australia & New Zealand Banking Group Limited.

Although the action had, by virtue of that order striking it out, thus come to an end, and although no appeal was instituted against the order of Mr Justice Dowsett, the appellants here nonetheless applied to Mr Justice Derrington in the Supreme Court in 1992 for an order extending the time for appealing against orders that had been made in that action by Master Lee at an earlier date; that is, in October 1987.

The application included various other claims, including a claim for an injunction to restrain the ANZ Banking Group from disposing of land and securities pursuant to orders that were also said to be erroneous in what is described as an inter-related action No 3423 of 1988 in the Supreme Court. The application that was made to him in 1992 was dismissed by Mr Justice Derrington on 30 October 1992.

The applicant brings this appeal against that order dismissing it. We have been taken, as we were in the previous appeal we heard, to the appellant's arguments about the sufficiency or validity of the currency system in

Australia, and to his complaints about the unsatisfactory state of the legal and judicial system.

So far as I am concerned, none of these questions is relevant to the appeal that is now before us. The short answer to this appeal is that the action in which the application was made from which appeal is now sought to be brought, was struck out in December 1990.

Nothing has happened since to alter that state of affairs. There cannot be an appeal in an action that was struck out at a time well before the application from which this appeal is sought to be brought.

I would accordingly dismiss the appeal in this case.

PINCUS JA: I agree.

SHEPHERDSON J: I agree.

McPHERSON JA: The order of the Court is that the appeal is dismissed.

...

McPHERSON JA: The order that should be made in this case is that the appellant should pay the respondent's costs of

appeal to be taxed.
