



Duties Court Decision Summaries

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NSW Court of Appeal Decisions Summaries

Leases

2011 Decision Summary

Chief Commissioner of State Revenue v Centro (CPL) Limited [2011] NSWCA 325

Date of Decision: 18 October 2011

- Decision:**
1. Appeal allowed.
 2. Set aside the orders made by Gzell J on 23 July 2010 and varied on 2 August 2010.
 3. In lieu thereof, order that:
 - (a) Centro's summons filed on 16 September 2008 be dismissed; and
 - (b) Centro pay the Commissioner's costs of the proceedings.
 4. Centro pay the Commissioner's costs of the appeal.

[Note: The Uniform Civil Procedure Rules 2005 provide (Rule 36.11) that unless the Court otherwise orders, a judgment or order is taken to be entered when it is recorded in the Court's computerised court record system. Setting aside and variation of judgments or orders is dealt with by Rules 36.15, 36.16, 36.17 and 36.18. Parties should in particular note the time limit of fourteen days in Rule 36.16.]

In 2010 Centro (CPL) Limited ("Centro") succeeded in an appeal to the Supreme Court against the decision of the Chief Commissioner of State Revenue ("Chief Commissioner") to apply the anti-avoidance provisions of s.24 of the Duties Act 1997 ("Act"). Gzell J upheld Centro's appeal against the Chief Commissioner's decision to disregard the grant of a long-term concurrent lease of land in NSW in determining the dutiable value of the acquisition by Centro of the reversionary interest in Bankstown Shopping Centre

On 18 October 2011 the Court of Appeal delivered a unanimous judgment in favour of the Chief Commissioner, overturning the decision of Gzell J at first instance. The Court of Appeal found the scheme or arrangement identified by the Chief Commissioner had a collateral purpose of reducing the duty otherwise payable on the dutiable transaction under s 24 of the Act.

Catchwords:-

TAXES AND DUTIES - application to review an assessment of duty - contract for the sale of a freehold interest subject to a 300 year concurrent lease at a substantial premium but nominal rental - whether grant of concurrent lease had the effect of reducing dutiable value for the purposes of s 24(1) of the *Duties Act 1997* (the Act) - whether Chief Commissioner was correct not to be satisfied that the concurrent lease was not granted as a part of an arrangement or scheme for the purpose of reducing the duty otherwise payable

Select this hyperlink to go to the summary:-

[Chief Commissioner of State Revenue v Centro \(CPL\) Limited \[2011\] NSWCA 325](#)