



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: S125/2022
File Title: Laundry Hotels (Quarry) Pty Limited v. Dyco Hotels Pty Limited
Registry: Sydney
Document filed: Other document-Agreed Chronology
Filing party: Appellant
Date filed: 21 Nov 2022

Important Information

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IN THE HIGH COURT OF AUSTRALIA
 SYDNEY REGISTRY

BETWEEN:

LAUNDY HOTELS (QUARRY) PTY LIMITED (ACN 159 364 342)

Appellant

and

**DYCO HOTELS PTY LIMITED (ACN 100 275 974) ATF THE PARRAS
 FAMILY TRUST**

First Respondent

and

QUARRYMAN HOTEL OPERATIONS PTY LIMITED (ACN 634 263 933)

Second Respondent

and

DAPHNE MARIA PARRAS

Third Respondent

and

COLIN MICHAEL PARRAS

Fourth Respondent

AGREED CHRONOLOGY

Part I: Certification

This chronology is in a form suitable for publication on the Internet.

Part II: List of principal events leading to the litigation

Date	Event	Ref
21.11.2019	Selling agents were engaged for the sale of the hotel (HTL Property and Knight Frank Hotels).	CAB 20 SC [27]

Date	Event	Ref
03.12.2019	<p>Mr Handy (HTL Property) contacted Colin Parras about the sale of the Hotel.</p> <p>Mr Handy provided certain information to Collin Parras about the Hotel, including a profit and loss statement for the July 2018 to June 2019 period and an Information Memorandum.</p>	<p>CAB 20 SC [27]</p>
06.12.2019	<p>Colin Parras and Daphne Parras inspected the hotel.</p>	<p>CAB 20 SC [28]</p>
09.12.2019	<p>Various due diligence checks were undertaken by Colin Parras.</p>	<p>CAB 20 SC [30]</p>
18.12.2019	<p>The Parras' made an offer to purchase the hotel property and business for \$10,600,000. Mr Handy indicated that he believed the offer would not be accepted.</p>	<p>CAB 20 SC [31]</p>
10.01.2020	<p>The Parras' made an offer to purchase for a price of \$11,250,000. The offer was accepted the same day.</p>	<p>CAB 20 SC [32]</p>
20.01.2020	<p>A draft contract (including Additional Conditions) is provided to AC Comino & Associates (for the Respondents) around 20 January 2020.</p>	<p>CAB 20 SC [33]</p>
31.01.2020	<p>Contract in respect of the sale of the freehold and business of the hotel known as the Quarrymans Hotel, 214-216 Harris Street, Pyrmont entered into for the price of \$11,250,000. Deposit of \$562,500 paid as required by the Contract.</p> <p><i>Additional Clause 50.1:</i></p> <p><i>Subject to clause 50.2, from the date of this Contract until Completion, the Vendor must <u>carry on the Business in the usual and ordinary course as regards its nature, scope and manner</u> and repair and maintain the Assets in the same manner as repaired and maintained as at the date of this Contract and use reasonable endeavours to ensure all items on the Inventory are in good repair and in proper</i></p>	<p>CAB 9, 21 SC [2], [33]- [34]</p> <p>CAB 14 SC [15]</p>

Date	Event	Ref
	<i>working order having regard to their condition at the date of this Contract, fair wear and tear excepted.</i>	
04.02.2020	Scott Robertson prepared a valuation of the Hotel dated 4 February 2020 addressed to the ANZ Bank in the same amount as the Contract price (\$11,250,000).	CAB 22 SC [38]
13.02.2020	Agreement was reached between the respective solicitors to the effect that settlement of the Business Assets would take place on Monday, 30 March 2020, with settlement of hotel property, licence and gaming entitlements to take place on Tuesday, 31 March 2020.	CAB 22 SC [35]
16.03.2020	St. George Bank issued a letter of offer to the Purchasers for a facility of \$6,500,000, with financial covenants set out therein.	CAB 22 SC [36]
23.03.2020	<i>Public Health (COVID-19 Places of Social Gathering) Order 2020</i> came into force. Clause 5(1)(a) closed pubs, save for food and beverages to be consumed off premises.	CAB 22-23 SC [39]
23.03.2020	The hotel was closed pursuant to the <i>Public Health (COVID-19 Places of Social Gathering) Order 2020</i> .	CAB 23 SC [40]
25.03.2020	Letter from AC Comino & Associates to JDK Legal (for the Appellant) stating that the Appellant was not ready, willing and able to complete the Contract because, inter alia, it was in breach of special condition 50.1. Email from AC Comino & Associates to JDK Legal attaching draft settlement figures said to be sent on a without admissions basis.	CAB 24 SC [44]-[45]
25.03.2020	Colin Parras spoke on the telephone to Ms Fong (his Relationship Manager at St George Bank). Mr Parras asked about obtaining relief from compliance with the financial covenants in the facility. On the same day, Ms Fong emailed Colin Parras agreeing to waive the financial covenants testing due on 30 June 2020 and 31 December 2020, and thereafter to test the covenants on a calendar year to date basis for the period	CAB 23-24 SC [42]-[43] CAB 25 SC [47]

Date	Event	Ref
	<p>ending 30 June 2021 and 31 December 2021, and thereafter, on a 12 month rolling basis.</p> <p>Mr Parras emailed Ms Fong suggesting an alternative arrangement to the financial covenant testing.</p>	
26.03.2020	<p>The hotel was re-opened for takeaway sales and delivery. Business continued with takeaway sales only until 1 June 2020 (even though very limited trading for consumption on the premises was permitted from 15 May 2020).</p>	<p>CAB 23 SC [40] CAB 43 SC [107]</p>
27.03.2020	<p>Letter from AC Comino & Associates to JDK Legal asserting that the Contract had been frustrated or alternatively, that the Respondents were entitled to issue a notice to complete and terminate because of the Appellant’s inability to complete the Contract.</p>	<p>CAB 25 SC [48] CAB 74 CA [11]</p>
27.03.2020	<p>Letter from JDK Legal to AC Comino & Associates stating “[o]ur client does not consider that it is in breach of the contract as alleged, or at all. Further, our client is ready, willing and able to perform its obligations and calls upon the purchaser to complete the contract.</p> <p>To ensure there is no misunderstanding, we have summarised below the bases upon which the vendor considers: it is not in breach; that the contract is on foot; and that it is entitled to insist upon completion.</p> <p>...</p> <p>The vendor calls upon the purchaser to complete the contract.”</p>	<p>CAB 25 SC [49]</p>
27.03.2020	<p>Further letter from JDK Legal to AC Comino & Associates stating that no particulars had been provided of the assertion of frustration and calling for completion.</p>	<p>CAB 25 SC [50]</p>
27.03.2020	<p>55 days after exchange for completion date of the sale of Business Assets (special condition 65.3).</p>	
28.03.2020	<p>56 days after exchange for completion date of the sale of Property (special condition 65.4).</p>	

Date	Event	Ref
30.03.2020	Date agreed for settlement in correspondence between the parties' solicitors in February 2020.	CAB 22 SC [35]
31.03.2020	Email from JDK Legal to AC Comino & Associates stating that the Vendor was ready to conduct stocktake, calculate on site adjustments and to complete the business sale on 30 March 2020. However, the Purchaser did not attend.	CAB 25-26 SC [51]
03.04.2020	Email from Ms Fong responding to Colin Parras' email of 25 March 2020 stating that the start date of the testing for covenants will be reviewed should the COVID-19 situation progress.	CAB 26 SC [52]
06.04.2020	Letter from JDK Legal to AC Comino & Associates requiring the Purchasers to make an appointment for completion.	CAB 26-27 SC [53]
08.04.2020	Letter from AC Comino & Associates to JDK Legal asserting that the Contract had been frustrated and that the Appellant was in breach of Additional Clauses 50.1 and 58.2 and was thus not ready, willing and able to complete the contract (if it had not already been frustrated).	CAB 27 SC [54]
17.04.2020	Letter from JDK Legal to AC Comino & Associates offering to extend the time for completion to 14 days after the ending of the Covid Order preventing trading. The offer is not accepted by the Respondents.	CAB 27 SC [55]
21.04.2020	Letter from JDK Legal to AC Comino & Associates stating that unless the Purchasers agree a date for completion by 23 April 2020, the Vendor would issue a Notice to Complete.	CAB 28 SC [56]
22.04.2020	Letter from AC Comino & Associates to JDK Legal stating that the Vendor was not entitled to issue a Notice to Complete.	CAB 28 SC [56]
22.04.2020	Robertson & Robertson prepared an Addendum to the earlier valuation of 4 February 2020. A deduction of one year's maintainable earnings (\$978,771) was applied to the	CAB 28 SC [57]

Date	Event	Ref
	capitalised value to arrive at a new valuation of \$10,250,000.	
28.04.2020	The Appellant issued a Notice to Complete on 28 April 2020, requiring completion of the sale of the hotel Business on 12 May 2020 and the sale of the hotel property, licence and gaming machine entitlements on 13 May 2020.	CAB 28 SC [58]
28.04.2020	The proceedings are commenced by the Respondents.	CAB 28 SC [59]
11.05.2020	Letter from JDK Legal to AC Comino & Associates attaching updated settlement figures and calling on the Purchaser to complete.	CAB 28 SC [60]
12.05.2020	Letter from AC Comino & Associates to JDK Legal stating that the Appellant was not ready, willing and able to complete.	CAB 28 SC [61]
13.05.2020	Letter from JDK Legal to AC Comino & Associates noting that no-one attended the stocktake and no appointment for completing had been made by the Purchasers.	CAB 28-29 SC [62]
14.05.2020	<i>Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 2) 2020</i> : Hotels were permitted from 15 May 2020 to open for up to 10 people for the purposes of selling food or drinks, but only if liquor was sold with or ancillary to food served for eating on the premises. As it was not economically feasible for the hotel to open for up to 10 people, it continued to operate for takeaway sales only until 1 June 2020.	CAB 29 SC [63]- [64]
20.05.2020	The Appellant posted on the hotel's Instagram account that the hotel would be re-opening soon.	CAB 29 SC [65]
21.05.2020	The Appellant issued a Notice of Termination of the Contract. Clause 4 of the Notice additionally relied on the letters of AC Comino dated 1 & 12 May 2020 and the filing of the Statement of Claim as evidencing repudiation.	CAB 29-30 SC [66]

Date	Event	Ref
22.05.2020	The Appellant posted on the hotel's Instagram account that the hotel would be re-opening on 1 June 2020.	CAB 30 SC [67]
23.05.2020	The Respondents' Solicitor sent a letter to the Appellant's solicitors stating that, if the Court holds that the Contract was not frustrated, the Appellant was not entitled to issue the Notice to Complete and the issue of the Notice of Termination was a repudiation by the Appellant and accepted by the Purchasers.	CAB 30 SC [68]
01.06.2020	<i>Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020</i> commences: Hotel re-opened subject to the 1 person per 4m ² rule. The maximum number of customers permitted on the premises at that stage was 137.	CAB 29 SC [64] CAB 31 SC [69]

Dated: 16 November 2022



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