



## HIGH COURT OF AUSTRALIA

9 October 2024

HBSY PTY LTD ACN 151 894 049 v GEOFFREY LEWIS & ANOR  
[2024] HCA 35

Today, the High Court issued a writ of certiorari quashing a decision of the Full Court of the Federal Court of Australia ("the Full Court") and a writ of mandamus commanding the Full Court to hear and determine the plaintiff's appeal.

The case concerned the scope of the appellate jurisdiction of the Full Court to hear and determine an appeal involving a matter arising under the *Bankruptcy Act 1966* (Cth) from a single judge of the Supreme Court of New South Wales. The issue was whether s 7(5) of the *Jurisdiction of Courts (Cross-vesting) Act 1987* (Cth) ("the *Cross-vesting Act*") applied to engage the Full Court's appellate jurisdiction under s 24(1)(c) of the *Federal Court of Australia Act 1976* (Cth) ("the *Federal Court Act*"). That jurisdiction, granted by s 24(1)(c) of the *Federal Court Act* "in such cases as are provided by any other Act", is enlivened by an appeal that falls within the scope of s 7(5) of the *Cross-vesting Act*. In terms, s 7(5) of the *Cross-vesting Act* provided that, if it appears that a matter for determination in an appeal from a "decision of a single judge of the Supreme Court of a State or Territory" is a "matter arising under" one of the thirteen Commonwealth Acts specified in the Schedule to the *Cross-vesting Act* ("the Scheduled Acts"), that appeal is required to be instituted in, and determined by, one of the three courts identified in s 7(5), including the Full Court. The *Bankruptcy Act* is one of the Scheduled Acts.

The plaintiff commenced proceedings in the Supreme Court of New South Wales seeking orders to revoke letters of administration of a deceased estate that had been granted to the first defendant. In response to a cross-claim that had been filed by the first defendant, the plaintiff raised a defence based on a provision of the *Bankruptcy Act*. The primary judge dismissed the plaintiff's claim. The plaintiff filed and served a notice of intention to appeal to the Court of Appeal of the Supreme Court of New South Wales. However, its legal advisers subsequently came to the view that the plaintiff's appeal would concern a matter arising under the *Bankruptcy Act* and that, pursuant to s 7(5) of the *Cross-vesting Act*, such an appeal lay only to the Full Court. As the deadline for filing a notice of appeal to the Full Court had expired, the plaintiff filed an application for an extension of time to appeal to the Full Court. The Full Court dismissed the plaintiff's application for an extension of time on the basis that s 7(5) of the *Cross-vesting Act* did not apply.

The High Court, by majority, held that the Full Court erred in its construction of s 7(5) of the *Cross-vesting Act* and that the Full Court had appellate jurisdiction to hear and determine the appeal brought by the plaintiff. The plaintiff's appeal to the Full Court, which raised a matter for determination under the *Bankruptcy Act*, enlivened the Full Court's appellate jurisdiction under s 24(1)(c) of the *Federal Court Act* by reason of the provision made in s 7(5) of the *Cross-vesting Act*.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*