

S *upreme court notes*

Crimes (Victims Assistance) Act - Application to Proceed out of Time - Jurisdiction - Local Court Act

Cambridge Gulf Exploration NL v Roberts and Ors

SC Nos 67 and 68 of 1995

SC Nos 70 & 71 of 1995

Judgment of Thomas J, delivered 8 December 1995

The appellant, pursuant to s 19(3) of the *Local Court Act*, sought leave to appeal from the decision of the Local Court granting the first respondents an extension of time within which to make an application for a *Crimes (Victims Assistance) Act* ('the Act') certificate.

The first respondent, in each of the four matters the subject of the appeal, filed an application on 16 January 1995 for an extension of time within which to bring an application for assistance pursuant to s 5 of the Act.

The Act enables a 'victim' of crime to obtain financial assistance. Section 5

permits a 'victim' to 'within 12 months after the date of the offence to apply to a court for an assistance certificate in respect of the injuries suffered by him as a result of that offence'.

Section 5(3) permits the Court to extend the period within which an application can be made. In this case the offence, which involved carrying out work on a sacred site contrary to s 34 of the *Aboriginal Sacred Sites Act* (NT), occurred in August 1993 and the application for assistance was made in January 1995.

The basis of the appeal was that the learned Stipendiary Magistrate had no jurisdiction to hear the application on the grounds that:

(1) the 'injury' alleged arose from 'the loss of or damage to property (which loss or damage is the result of an offence relating to that property);' which is specifically excluded in the definition of injury under s 4 of the Act;

(2) there was no evidence that the applicants had suffered 'mental injury'

which constituted a 'recognisable psychiatric illness';

(3) the precis of the facts showed that the applicants alleged 'mental injury and distress' which was caused by or arose out of the use of a motor vehicle 'namely a front end loader' and '... injury or death caused by, or arising out of, the use of a motor vehicle, except where that use constitutes an offence under the Criminal Code' is precluded by s 12(e) of the Act.

Held, that it was not incumbent upon the learned Stipendiary Magistrate to finally determine the substantive jurisdictional issues at the interlocutory stage. The learned Stipendiary Magistrate did not apply a wrong principle of law by referring to whether or not there was a case to be argued.

Appearances:

Mr Riley QC, instructed by Mr Hardy of Ward Keller for the appellant.

Mr Young, instructed by Ms Gilmour of the Northern Land Council for the first respondents.

S *upreme court library news*

Subject Index 1977-91

This index was finally completed over the Christmas Break. The cost is \$110 and it is available in paper format or in electronic form. If you require the latter, please supply a 3½" diskette and state your preference for ASCII or WORD6. If you ordered a copy from the circular issued in November 1995, there is no need to order it again.

New Services

Now that the project to cumulate the judgments indexes is complete, the library is able to provide some new services. Two which will commence now are: Gazette Index and WIG Subject Index to Recent Judgments.

• Gazette Index - We are indexing the G and S series NT Government Gazette from the beginning of 1996; back copies will be included as time permits.

• WIG Subject Index to NT judgments - Each month will be including in WIG the subject entries from the catchwords of the judgments have catchwords prepared and it can be considerable time after a judgment is handed down for the library to receive the catchwords.

There is an information sheet available from the library outlining these new services in more detail.

Later in 1996 we hope to provide other new services and details of these

will be provided at the time of release.

Staff Movements

Bronwyn King has gone to the Police Library for 6 months to replace Jenny Hall who has gone to NT Library Services. We have interviewed for a replacement for Bronwyn.

Phone Numbers

Phone numbers on the NT Government switchboard have changed. Old numbers starting with 89 now begin with 99; the last 4 digits remain the same. The new numbers for the Supreme Court Library are:

General 996583

Librarian 996585