

AUSTRALIA / JUDGMENT

Brownlee v Manteit [2000] FCA 1937

COURT

FEDERAL COURT OF AUSTRALIA

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FEDERAL COURT OF AUSTRALIA

Brownlee v Manteit [2000] FCA 1937

RHONDA ANN BROWNLEE v MARK MANTEIT & ANOR

N7937 of 2000

MADGWICK J

5 DECEMBER 2000

SYDNEY

IN THE FEDERAL COURT OF AUSTRALIA

NEW SOUTH WALES DISTRICT REGISTRY N7937 OF 2000

BETWEEN: RHONDA ANN BROWNLEE

APPLICANT

AND: MARK MANTEIT

FIRST RESPONDENT

INSOLVENCY AND TRUSTEE SERVICE OF AUSTRALIA

SECOND RESPONDENT

JUDGE: MADGWICK J

DATE OF ORDER: 5 DECEMBER 2000

WHERE MADE: SYDNEY

THE COURT DECLARES
THAT:

1 The failure of the applicant to file her statement of affairs with the Registrar of this Court in 1995 was an irregularity within the meaning of s 306 of the Bankruptcy Act 1966 (Cth).

2 In the circumstances, the proceedings being the filing of such a statement of affairs, was not invalidated by that irregularity.

3 The applicant's statement of affairs is deemed to have been filed on or before 16 December 1996.

4 The applicant was discharged from bankruptcy on 17 December 1999.

IN THE FEDERAL COURT OF AUSTRALIA

NEW SOUTH WALES DISTRICT REGISTRY N7937 OF 2000

BETWEEN: RHONDA ANN BROWNLEE

APPLICANT

AND: MARK MANTEIT

FIRST RESPONDENT

INSOLVENCY AND TRUSTEE SERVICE OF AUSTRALIA

SECOND RESPONDENT

JUDGE: MADGWICK J
DATE: 5 DECEMBER 2000
PLACE: SYDNEY

REASONS FOR JUDGMENT

(revised from transcript)

HIS HONOUR:

1 The Deputy Registrar has apparently spoken to somebody in the office of Mr Manteit, the first respondent, he being absent, and the view has been conveyed to the Registrar that there is no objection to the application which the applicant seeks. It seems to me that it would be within the power of the Court to grant the orders sought and I will do so.

2 I declare that the failure of the applicant in 1995 to file her statement of affairs with the Registrar of this Court, as the Bankruptcy Act 1966 (Cth) ("the Act") required, was an irregularity within the meaning of s 306 of the Act and I declare that in the circumstances the proceeding, being the filing of such a statement of affairs, was not invalidated by that irregularity.

3 I further declare that I am not of the opinion that substantial injustice has been caused by this irregularity. I declare accordingly that the applicant's statement of affairs is deemed to have been filed on or before 16 December 1996 and I declare that the applicant was discharged from bankruptcy on 17 December 1999. There will be no order as to costs.

4 I might add that the first respondent would appear to misconceive his responsibilities as a trustee, which are not to stay quiet and refuse to assist the Court simply because the money in the estate has run out. I will cause a copy of this judgment to be sent by the Registrar to Mr Manteit.

I certify that the preceding four (4) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Madgwick.

Associate:

Dated: 15 January 2001

Representative for the Applicant: A J Brownlee (with leave)

No appearance for the 1st and 2nd Respondent.

Date of Hearing: 5 December 2000

Date of Judgment: 5 December 2000

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