

AUSTRALIA / JUDGMENT

Khoury v Bradmill Group Ltd [1987] FCA 797

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JUDGMENT No.

IN THE FEDERAL COURT OF AUSTRALIA

NEW SOUTH WALES DISTRICT REGISTRY No. G511 of 1987

GENERAL DIVISION

BETWEEN: EMANUEL KHOURY and SAMIRA KHOURY trading as MSK Jeans Manufacturing and
formerly known as Radna Clothing Manufacturing

Applicant

AND: BRADMILL GROUP LIMITED

Respondent

CORAM: M. L. FOSTER, J.

DATE: 17 December, 1987.

REASONS FOR JUDGMENT

HIS HONOUR: These proceedings were set down for a full interlocutory hearing in which
interlocutory relief in the nature of an injunction was sought by the applicant. It

is apparent from the file that a timetable was set down on a fairly urgent basis and that affidavits,
which are quite numerous and lengthy, have been prepared on the part of the respondent in
opposition to the application, which it was \

anticipated would be made today.

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FEDERAL COURT OF

AUSTRALIA PRINCIPAL

The applicant has only today indicated that it abandons the claim for interlocutory relief. It appears that it became aware of certain facts on discovery which played a part in the forming of that decision and that those facts only became available quite recently. However, in all the circumstances, I do not see that that fact carries sufficient weight to produce a different result from what must be regarded as the usual and proper result in a situation such as this; namely, that the applicants, in abandoning their application, renders themselves liable for the respondent's costs thrown away as a result of the application not proceeding.

In the circumstances, the application for interlocutory relief having been abandoned, the application is dismissed and I order that the applicants' pay the respondent's costs.

So far as the application for security for costs is concerned, I am satisfied that it is necessary for the applicants to file an affidavit upon which to base their submissions that no such order should be made. It seems that some misunderstanding has occurred as to the listing of that matter today, in any event.

Clearly the applicants are not in a position to proceed. I consider that the appropriate order to make in that case is that it be stood-over, restorable on two days notice and that the costs of today be reserved. \ | eertify that this and the preceding pages are a true copy of the reasons for judgment herein of His Honour, Mr. Justice b d s Foster.

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