

Lendlease Building Pty Ltd v BCS Airport Systems Pty Ltd & Ors [2024] QSC 164

FACTS

The case of *Lendlease Building Pty Ltd v BCS Airport Systems Pty Ltd & Ors [2024] QSC 164* involved an appeal by Lendlease Building Pty Ltd (**Lendlease**) of an adjudication decision regarding a payment claim by Lendlease in the amount of \$1,215,733.23.

Lendlease entered a subcontract agreement with BCS Airport Systems (**BCS**) for works to be performed at the Gold Coast airport in late 2022, with the airport being governed by the *Commonwealth Places (Application of Laws) Act 1970 (Cth)* (**CPAL Act**). The adjudication decision was issued on 6 December 2022, in the amount of \$995,081.81 in favour of BCS.

Lendlease appealed the adjudication to the Queensland Supreme Court, and the issue of whether an adjudication decision carried judicial power (being the power of a court as defined under the CPAL act), with the QLD Solicitor-General providing submissions due to the significance of the questions raised.

Notably, if the adjudicator was viewed as exercising judicial power, adjudications on all CPAL governed sites across Australia would be brought into question.

ISSUE

Whether the adjudicator was exercising judicial power within the meaning of the CPAL act?

FINDING

His Honour, Sullivan J dismissed the appeal, finding that the adjudication decision did not involve an exercise of judicial power. His Honour stated at paragraph 312 of the judgment:

312. *I have concluded that an adjudicator does not exercise judicial power under the BIF Act. Consequently, this issue is answered in the negative and, as a result, s 4(1) of the CPAL Act has the effect of applying the BIF Act to the contract between the parties in accordance with its terms.*

IMPACT

This decision reinforces Australian courts' support of the adjudication dispute resolution systems across Australian jurisdictions and suggests that contractors and builders may be able to rely on the simplicity and certainty of adjudication under security of payment regimes, including on Commonwealth sites. Of course, the case for one uniform Commonwealth SOPA Act remains overwhelming.