

**Santos Limited v Fluor Australia Pty Ltd & Anor [2023] QSC 7**

**FACTS**

This case arises from a large-scale construction dispute involving the upstream component of a coal-seam gas project between 2011 and 2014. The dispute was referred to three referees for determination, and the defendants later sought to stay the process, alleging procedural unfairness and bias. The Supreme Court of Queensland was asked to decide whether the reference should be halted pending further litigation.

**ISSUE**

Can procedural fairness concerns justify halting a dispute resolution process mid-stream, or should efficiency take priority?

**FINDING**

The Supreme Court of Queensland dismissed the defendants' application for a stay, emphasising that efficiency and progress in dispute resolution should not be derailed by unproven procedural complaints.

Mr Justice Applegarth J held:

*“There is no utility in allowing a flawed process to run to its conclusion. Sometimes, however, allowing a process that is alleged by one party to be flawed to continue will have utility... That may be so if the harm flowing from halting the process outweighs the harm flowing from its continuation.” (para. 102)*

*“...public confidence is best served by a decision that avoids or minimises irreparable harm pending a decision as to whether the process is flawed, and which best advances the just and expeditious resolution of the matter.” (para. 103).*

*“Public confidence in the administration of justice is best advanced by a decision that assesses, as best a court can, the likelihood that a process subsequently will be found to be flawed and that assesses the consequences to the parties and the due administration of justice of either halting the process or allowing it to continue, pending the court's determination of the substantive challenge to the impugned process.” (para. 104)*

*“No irreparable harm will be suffered by allowing the referees to complete their report since, unlike a judgment or other determination that finally declares the rights of the parties, the report does not determine the parties' rights; it remains for the court to accept, vary or reject all or part of the report.” (para. 113)*

**IMPACT**

This case demonstrates that procedural concerns must be weighed against the broader objectives of efficiency and justice in construction disputes. Parties should raise fairness issues early, but they should not assume that litigation delays will always work in their favor.

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