Abuse of Enduring Power of Attorneys and real estate transactions in Australian courts

Abstract

Purpose: The purpose of this study is to highlight how people acting as Enduring Power of Attorney abuse their privilege in relation to real estate transactions through analysis of five Court cases. We thereby provide insight into how and why adult children cross the line into the realm of misconduct.

Approach: The approach involved a review of various Court proceedings relating to elder financial abuse, and the synthesis of the important facts and judgements made that constitute unconscionable conduct, undue influence, and passive acceptance of benefit. The cases selected focus on real estate transactions.

Findings: The research revealed some key commonalities and that property and living arrangements are the issues highly contested in Courts for small estates.

Originality: A review of cases relating to EPoA in relation to real estate is novel and makes an important contribution to developing resources to educate Attorney’s and financial service professionals, including real estate agents.

Implications: The case review provides some critical findings that are valuable for wealth management professionals or managing an ageing persons care and living arrangements. It provides practical insights for the importance of independent legal and financial advice when entering real estate transactions. The findings also inform real estate agent practice in helping to reduce elder financial abuse through robust checks if an Attorney is acting on behalf of a Principal. We also support improving EPoA guidance and professionalization to assist Attorney’s to carry out their duties with appropriate care.

Keywords: Enduring Power of Attorney: EPoA; Financial abuse; Inheritance impatience

Paper type: Case study
Introduction

Elder abuse is a complex issue that harms the elderly, families, and society. The wealth management industry is increasingly aware of the role they inadvertently play in facilitating an abuser to perpetrate financial abuse and are improving detection and reporting mechanisms (ref). Large organisations have the resources to train staff and embed red flag identifiers in their systems, but smaller firms are resource constrained. This article aims to provide distilled knowledge to wealth management professionals on current principles of law involved in the misuse of Enduring Power of Attorney in real estate transactions.

The World Health Organisation (WHO) (2017) defines elder abuse as, “a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.” The work of Feltner and colleagues (2018) builds on this definition, arguing that, “elder abuse refers to an intentional act or failure to act by a caregiver or another person in a relationship involving an expectation of trust that causes or creates a serious risk of harm to an older adult.” There are many dimensions and forms that elder abuse can take, including: physical (Kurrle and Naughtin, 2008); psychological (Lachs and Pillemer, 2004) sexual (Hafemeister, 2003); and financial (Kemp and Mosqueda, 2005). This study focuses on instances of financial abuse but note that financial abuse and emotional abuse are often interwoven (West, 2021).

Leading scholarly and industry studies that have examined elder abuse have centred on the level of incidence, criminological aspects, and victimology (Australian Institute of Family Studies, 2015; World Health Organisation, 2015; Wilber and Acierno, 2008; Biggs and Goergen, 2010). However, recent research in the field has focused specifically on financial crimes against the elderly (World Health Organisation, 2017; Florida Department of Children and Families, 2020; Lowrey, 2020). This body of work has found that those closest to the victim, that is, the victim’s children, are not only the most likely to be appointed Enduring Power of Attorney (EPoA), but also most likely to abuse the associated responsibilities and privilege (Elder Abuse Prevention Unit, 2018).

In Australia, guardianship laws and forms to nominate EPoA’s are managed by each State and Territory’s justice department. An EPoA allows the Principal (including, but not limited to, senior citizens) to appoint an Attorney (trusted person) to make decisions about personal matters and/or financial matters. The Principal can decide when the Attorney’s power to make financial decisions begins (immediate, specific date, in particular circumstances or when incapacitated). The circumstances are most often due to a loss of capacity to make decisions. While the form itself is uncomplicated, the completed EPoA nomination form instigates a high-level obligation of fiduciary duty on the Attorney as it significantly affects the legal rights of the Principal. Attorneys hold a special relationship of trust and confidence with the Principal that may not be well understood by a layperson. Fiduciary duty in the EPoA context relates to a relationship of trust and confidence involving the highest standards of care, loyalty, good faith, and prudence (Drew and Walk, 2019, p.1).

Many financial matters on which Attorneys are required to act on behalf of the Principal relate to real estate transactions. Section 1 of the Powers of Attorney Act 1998 QLD defines a
financial matter, for a Principal, is a matter relating to the Principal’s financial or property matters, including a matter relating to one or more of the following –

(a) paying maintenance and accommodation expenses for the Principal and the Principal’s dependants, including, for example, purchasing an interest in, or making another contribution to, an establishment that will maintain or accommodate the Principal or a dependant of the Principal;
(b) paying the Principal’s debts, including any fees and expenses to which an administrator is entitled under a document made by the Principal or under a law;
(c) receiving and recovering money payable to the Principal;
(d) carrying on a trade or business of the Principal;
(e) performing contracts entered into by the Principal;
(f) discharging a mortgage over the Principal’s property;
(g) paying rates, taxes, insurance premiums or other outgoings for the Principal’s property;
(h) insuring the Principal or the Principal’s property;
(i) otherwise preserving or improving the Principal’s estate;
(j) investing for the Principal in authorised investments;
(k) continuing investments of the Principal, including taking up rights to issues of new shares, or options for new shares, to which the Principal becomes entitled by the Principal’s existing shareholding;
(l) undertaking a real estate transaction for the Principal;
(m) dealing with land for the Principal under the Land Act 1994 or the Land Title Act 1994;
(n) undertaking a transaction for the Principal involving the use of the Principal’s property as security (for example, for a loan or by way of a guarantee) for an obligation the performance of which is beneficial to the Principal;
(o) a legal matter relating to the Principal’s financial or property matters;
(p) withdrawing money from, or depositing money into, the Principal’s account with a financial institution.”

The case studies we review illustrate the extent to which Attorneys have abused their trusted role to their own advantage. We first provide a brief overview of the research background on the risk factors associated with elder financial abuse. Second, we present case law precedent that defines the expectations for behaviours of Attorney’s and circumstances relating to what is known as ‘special disability’. The five cases explored involving real estate transactions are discussed in some detail. Finally, we propose recommendations for improving the professionalism of EPoA’s with training support.

The case review is timely, as the Royal Commission into Aged Care Quality and Safety in 2019 cast a spotlight on older Australians, and various agencies campaigned to establish nationally consistent laws, a national Power of Attorney register and a single agency to report abuse (Commonwealth of Australia, 2019). Governments need to be cognisant of not enabling elder financial exploitation unintentionally through policy design. The shift to personal responsibility for managing retirement savings coincides with a time when ability to manage money becomes impaired due to the ageing process. Further, over the next two decades globally, Baby Boomers will transfer $30 trillion in wealth to younger generations, coined the ‘great wealth transfer’. Accordingly, estate planning is a risk factor for the exploitation of
ageing Australians and an important topic for wealth management professionals and their clients (Schmit et al., 2021).

Elder Financial Abuse Risk Factors

The extent of financial abuse of older Australians is relatively unknown for many reasons. The best estimate from the World Health Organisation is between 1.0% and 9.2% worldwide (Long, 2016), while an Australian study puts it at between 0.5% to 5.0% of older people (Darzins et al., 2010). Some of the disparity in estimates is due to a diversity on research measurement of defining and measuring financial exploitation (Jackson, 2015). Most studies find the adult son is the most likely perpetrator, following by the adult daughter (Elder Abuse Protection Unit, 2020). Perpetrators can also be other family members or informal carers (Elder Abuse Protection Unit, 2020). Potential abusers also include caregivers, people who feign a love interest, salespeople, con artists, handymen and other financial service providers (Tacchino and Tacchino, 2016). An ageing population, as well as increasing cost of living pressures on the adult children of ageing parents, is likely to significantly increase case numbers.

The ability to misuse an older person’s funds may in part be due to substantial time supporting the older person in daily living (O’Keeffe et al., 2007). Tilse, Wilson, Setterlund, and Rosenman (2005) find family or friend involvement in the management of older people’s finances is relatively common in Australia. In their survey, 25% of respondents reported they provided some asset-management assistance to an older person in the previous year, including paperwork, paying bills, banking, and dealing with superannuation and pension matters. In addition, over 56% of respondents made use of informal arrangements such as using the older person’s PIN number to access bank accounts electronically. These informal arrangements make older people susceptible to victimisation but become necessary as their physical and mental capacities become compromised. When managing an older person’s finance is formalised via an EPoA, opportunities to misuse funds are amplified.

It is important to note that while elder financial abuse is normally seen as deliberate financial abuse, a Monash University study found that unintended financial abuse exists. Unintended financial abuse is defined as inadvertent or uninformed financial mismanagement or neglect of financial assets (Darzins et al., 2010). This can result in the elder being deprived of the benefits they should have derived from those assets.

Previous research provides evidence that abuse is highly related to patterns of unhealthy money dependencies that are entrenched and persist throughout older age (West, 2021). For example, a Uniting Care report found that 38% of victims said they had a history of giving money or loans, 21.9% said they had a history of delegating financial matters, 6.1% said they had been financially dependent on others and 3.2% said that others financially depended on them (Uniting Care, 2018). Perpetrators are also characterised by the Elder Abuse Protection Unit as having a history of controlling behaviour, aggression, conflictual relationships, and emotional dysregulation (Elder Abuse Protection Unit, 2020).

The Uniting Care (2018) report also provides insight into potential motivations for poor behaviours that are loosely tied to ‘inheritance impatience’ or otherwise named ‘delayed inheritance’ (O’Connor, 2017). Perpetrator factors such as unemployment (5.4%), gambling problems (3.5%), debt issues (3.4%), dependence on others (3.3%) and insufficient income
(2.0%) point to a perfect storm caused by broad economic challenges such as the rising cost of living and housing affordability faced by the younger generations, coupled with parents living longer (Financial Services Council, 2019; West and Worthington, 2012). Similarly, Elder Abuse Protection Unit (2020) report that most perpetrators rely on Centrelink income, categorising many of them as low income and/or unemployed. It is not uncommon that unconscionable behaviour is sometimes committed in response to a fundamental human need such as food and shelter (Ali, 2021).

The term ‘inheritance impatience’ is apt in describing the tension between adult children and their ageing parents, and was previously popularised by Ms. Sue Field, an NSW Public Trustee Fellow in Elder Law (Susskind, 2008). In an interview published by the Law Society Journal of NSW, Ms. Field explained inheritance impatience from the perspective of an EPoA acting for a parent, “(They think) they’re going to get it (inheritance) later, so why not now? Mum’s completely lost it, so why put her in an upmarket place when we can just put her in a room with three others?” (Susskind, 2008).

Finally, there are intersectional issues for people of diverse cultures. Elderly people from culturally and linguistically diverse communities (CALD) can be vulnerable due barriers to accessing information (West, 2021). Further, intergenerational sharing of financial resources may vary by culture, but are done so without consideration of risk, language barriers, and cultural stigmas around ageing, death, and the treatment of widows. Wealth management professionals may have difficulty with interpreting complex family dynamics as what one culture perceives as inappropriate resource sharing may be generally accepted in another.

**Australian Case Law**

An analysis of Australian case law provides interesting insight into set precedent on the abuse of power by Attorney’s acting under EPoA’s regarding financial matters. The sample of cases examined in this review are drawn from across the country and represent that a large percentage of matters heard before the Courts. It is important to note, however, that complex family dynamics and the perception that older people are unreliable reporters mean that many instances of elder financial abuse are unreported. Accordingly, cases presented in Court are seen by the Principal or their representative to be egregious transgressions. As can be observed in the cases reviewed, matters heard by the Courts largely relate to living arrangements and real estate transactions in estates of relatively small wealth (less than $1 million). Reasons for this include those larger estates employ estate management professionals in lieu of adult children to oversee decision-making, and smaller estates with the bulk of wealth in the home are resource constrained, making the decisions regarding the home directly related to survival. We first set the context for the case studies with deriving an understating of the precedents on the Principal’s mental capacity (special disability) and the expectations of the EPoA Attorney.

**Expectations for Attorney’s**

Cases have provided precedent for defining expectations for Attorney’s and when special care is needed regarding the capacity of the Principal. In the matter of *Re Narumon Pty Ltd [2018]*, heard before the Supreme Court of Queensland, Justice Bowskill quoted Justice Lindsay’s
explanation of Power of Attorney in the matter of *Reily v Reily* [2017]. This following explanation is an in depth understanding of the precedent set regarding the responsibilities and expectations placed upon EPoA’s:

[114] The primary object of a power of Attorney is to enable the Attorney to act in the management of his or her Principal’s affairs; an Attorney cannot, in the absence of a clear power so to do, make presents to himself or herself or to others of his or her Principal’s property: *Tobin v Broadbent* [1947] 75 CLR 378 at 401 (quoting *Reckitt v Barnett Pembroke and Slater Limited* [1928] 2 KB 244 at 268, approved in the House of Lords [1929] AC 176 at 183 and 195), recently applied by the Full Court of the Federal Court of Australia in *Great Investments Limited v Warner* [2016] 243 FCR 516 at 538 [85].

[115] Under the general law of agency it is a breach of duty for an agent to exercise his or her authority for the purpose of conferring a benefit on himself or herself or upon some other person to the detriment of his or her Principal. But, at the same time, if his or her act is otherwise within the scope of his authority it binds the Principal in favour of third parties who deal with him bona fide and without notice of his fraud: *Richard Brady Franks Limited v Price* [1937] 58 CLR 112 at 142.

[116] Where a fiduciary (such as an agent) exercises a power which results in his or her obtaining some incidental benefit, there may be nothing *per se* improper with his or her having that benefit if the benefit itself is, in the circumstances, an inevitable consequence of his or her properly exercising the power which produces it. A beneficiary (Principal) may be able to upset such an exercise of power only if he or she can show that the fiduciary (agent) exercised it with the dominant purpose in mind of obtaining that benefit irrespective of the interests of his beneficiary (Principal).

Special care should be taken when the Principal is disadvantaged. ‘Special disability’ is the term given to those who are physically capable of signing binding documents, but not mentally capable of understanding the ramifications or the contents of the documents (*Field v Loh* [2007] QSC 350). When a Principal who may not speak English, is blind, has dementia, or illiterate, is induced to sign agreements that they do not have a true grasp upon, the Courts apply an equitable estoppel, protecting the Principal and their estate. The act of participating in the above will fit the legal definition of ‘unconscionable conduct,’ actions that are deemed to be manipulative and harmful to another party (*Field v Loh* [2007] QSC 350).

Unconscionable use of EPoA was found in *Cohen v Cohen* [2016] NSWSC 336 where a son, the sole beneficiary of his 92-year-old mother, transferred her unit into his own name. Over the decade she has resided in a nursing home, she has accrued debts over $26,000. The nursing home had no way of recouping payment as the mother had no other monies, her wealth was held in her unit, which the son still held. The Judge held that by the son transferring the unit to himself, a transfer which does not appear to have been disclosed to the mother, had the effect of depriving the mother of her only substantial asset, and constituted a breach of his fiduciary obligations to the Principal. There was no suggestion that the transfer of the unit was for the benefit of the mother; it was to her significant disadvantage and the Attorney abused the power
bestowed upon him by the Power of Attorney. The Judge ordered the unit to be transferred back to the Principal via the NSW Trustee and Guardian.

**Gifts**

While gifting from the Principal to an Attorney is not unlawful, the Attorney must exercise receiving such gifts with extreme caution. The reason is that Section 87 of the *Enduring Power of Attorney Act 1998* raises a presumption of undue influence on the part of the Attorney to receive gifts from the Principal. There are two categories of cases of undue influence. The first category arises where it has been positively proven that a transaction was produced by actual influence exercised by the recipient over the donor. The second category is where the law has recognised relationships which automatically raise a presumption of influence, including the relationship of doctor and patient, solicitor and client, guardian and ward, and parent and child (where the gift is by the child to the parent). However, the classes of relationships, in which the presumption arises, are not fixed and inflexible.

A review of the relevant case law shows that there is a blurred line between ‘gifts’ to the Attorney and ‘joint endeavors’ between the Attorney and Principal. In the case of *Field v Loh* [2007] QSC 350, Judge Douglas scrutinized the evidence provided as to the conditionality of the gift. This case involved a 76-year-old Asian woman with visual impairment who, after being ejected from her daughter’s house, was invited to live with the Loh family whom she met through church. The Loh family rented their residence, having had trouble with obtaining a bank loan. Sometime later, Mrs. Field offering the Loh family a $184,000 payment to help buy a home. Mrs. Field was coerced into signing a statutory declaration stating that the payment was a non-refundable gift. However, the Court held that the statutory declaration did not disclose that the parent expected care and housing in exchange for the gift, and it was unconscientious for the Loh family to describe the gift as unconditional. It was also noted that the Loh family did not seek legal advice. The Court ordered that a “constructive trust” is created in proportion to the contribution purchase price ($184,000) and monies are used to financially support the plaintiff’s living expenses.

Judge Douglas said the case may also be regarded as the passive acceptance of a benefit by the defendants in unconscionable circumstances, quoting Lord Brightman *O’Connor v Hart* [1985] UKPC 1; [1985] AC 1000 [1985] 1 NZLR 159:

[171] “‘Fraud’ in its equitable context does not mean, or is not confined to, deceit; ‘it means an unconscientious use of the power arising out of the circumstances and conditions of the contracting parties’; *Earl of Aylesford v Morris* [1873] 8 Ch App 484, 490. It is victimisation, which can consist either of the active extortion of a benefit or the passive acceptance of a benefit in unconscionable circumstances.”

**Accommodation for life**

Several cases have recently been litigated in Australian State Supreme Courts by elderly parents alleging that their adult child had improperly influenced them to enter a legal transaction that benefits the adult child, or some party connected to the adult child. An example
is Christodoulou v Christodoulou [2009] in the Victoria Supreme Court, that involved what is known as the ‘Centrelink Granny Flat Interest’. This social security benefit allows the Principal to gift an amount of money in exchange for accommodation in perpetuity in a home someone else owns, usually an adult child (Centrelink, 2021). If the strict conditions and guidelines are followed, the gift does not affect the Age Pension. The intent of this policy is to enable people to stay out of care facilities for longer, and for adult children to receive compensation for their capital costs.

Christodoulou v Christodoulou [2009] detailed that a mother and son entered a ‘Centrelink Granny Flat Interest’ agreement. In this case, the title to a property was transferred to a son (who was a nominated EPoA) and a deed was entered into to grant the mother a life interest to reside in the property. The mother was illiterate, her first language was not English, and she required daily care and assistance. Not long after moving into the residence she was transferred to an aged care facility. The mother bought the case against her son of half-interest in the residence based on undue influence and unconscionable conduct at the time the deed was struck. The evidence presented included that the mother had received legal advice from a Greek speaking solicitor prior to entry into a transaction. She was also described as "very feisty", "full on", "very determined", "a woman of independent disposition" and "not the type of person whose judgment or decisions were easily swayed". Accordingly, she was deemed by the Court to have complete independence and control over all her matters at the time of the agreement. The following is an excerpt from Justice Kaye on the matter:

[111] Certainly, the plaintiff was elderly and physically frail. However, as I have already stated, she was independent, and indeed feisty. She knew her own mind, and exercised her own independent decision making powers. The plaintiff was illiterate. However, she fully understood the nature of the transaction which she was undertaking. Illiteracy is not to be confused, or equated, with lack of intelligence. Mr. Anthony stated that the plaintiff fully understood the issues which needed to be addressed in her Family Law proceedings, and that she had a good appreciation of the potential implications for her Centrelink pension arising out of the gift which she had in contemplation.

Further:

The first defendant played the role of a loyal and supportive son, but at all times it was the plaintiff who made the key decisions which related to her own interests.

Key insights from this case are that the provision of legal advice is a critical factor in supporting the knowledgeableness of the Principal and refuting that the transaction was unduly influenced, and that the lack of wisdom of the transaction does not, of itself, establish that it was the product of undue influence.

The importance of seeking advice

The absence of legal or financial advice speaks to ensuring transactions are at arms-length. Smith v Glegg [2004] QSC 443 was a case bought by an 85-year-old, legally blind, mother against her daughter, who ultimately benefitted after selling her mother’s former residence a
year after the 85-year-old gifted ownership to her grandson. The house had been the 85-year-old’s only substantial asset, but its sale was discussed in relation to avoiding payment of a bond for entry into a retirement home. The 85-year-old argued the case of breaching fiduciary duty with a conflict of interest, and that the transaction was procured by undue influence, given the almost total dependency on her daughter. That the 85-year-old did not have legal representation for the transaction is significant. The Judge ruled that the Attorney was in breach of the fiduciary duty as an Attorney under an EPoA as a duty was owed not to put her own interests ahead of the Principal and was awarded sums totalling $181,761.26.

Passive acceptance of a benefit in unconscionable circumstances may arise in cases of ‘non-contribution’. An example of non-contribution as well as unconscionable conduct in the sale of property is found in *Gillian Fisher-Pollard by her tutor Miles Fisher-Pollard v Piers Fisher-Pollard* [2018] NSWSC 500. In this case, a son (nominated Attorney) living with the Principal was not paying their fair share of rent and/ or board. The nominated Attorney under the EPoA is the youngest of three sons and the Principal’s husband, who controlled financials, passes. After the husband’s death, the Principal was dependent on the son for help with everyday tasks, especially housing. The Court heard evidence of emails from the Principal stating the following about the Attorney to her other sons while they were living together before he sold the property:

“… nor does he pay for ANYTHING other than his own entertainment.”

“Honestly, I think I cannot stand it any longer. I may have to SELL this flat and leave him to fend for himself. I shall possible go to Tuross Head and find a small flat there. … I fear saying anything as he has the most terrifying temper … so I just go to my room, have a few (or maybe many) tears and leave him to it. I could not afford to let him have the flat, so he will have to find an income AND somewhere else to live.”

Thus, the abusive treatment of the Principal led to the Judge making a ruling of special disadvantage and unconscionable conduct due to the Attorney, while the Principal is still in grief, made significant property transactions (including, but not limited to, selling the family home, and purchasing new property in son’s own name with the estate monies). It is also significant and noted by the Judge that the Attorney did not receive any legal or financial advice in relation to the transactions.

**Discussion**

This case study analysis highlighted the significant involvement of real estate transactions in abuse of power in EPoA’s. It is a sad reality for low value estates that Principal’s have to sue their adult child to ensure their own living arrangements. For those Attorney’s navigating the complexities of this role, the important insight is to arrange independent advice (legal and financial) for the Principal wherever real estate is involved.

A well-designed EPoA system could also give Principal’s pause as to who best to nominate as their Attorney. Sometimes, the adult child is not the best candidate. In most cases though, it may be other choices are very limited, especially if the value of the estate is less than $1 million.
Appointing a third-party professional (such as professional trustees, accountants, and/or lawyers), or even the state trustee, can erode account balances very quickly.

Nonetheless, it might be helpful for cognitively capable ageing Australians to seek early advice on the distribution of assets to children, and update wills accordingly. This may mitigate the stress and heartache later incurred, and better ensure that the Principal is properly cared for.

Further, real estate agents, property settlement lawyers and banks need to be proactive in their enquiries where an Attorney is transacting a property on behalf of an older Principal. They should request the Attorney provides contact details for other family members and follow up with phone calls to confirm the intention of the transaction or visit the Principal in their place of residence.

Finally, as it is often the EPoA mandate that provides the legal right to the real estate transaction, we propose and endorse several reforms for Enduring Power of Attorney processes recommended in the *Royal Commission into Aged Care Quality and Safety 2019*, including:

- a national register of EPoA’s;
- the development of a national code of practice for EPoA’s; and
- legislation that excludes/disqualifies individuals from being appointed as an EPoA.

These improvements would greatly reduce harm caused to ageing Australians. Decision-makers in the justice system do need a mechanism to disallow the appointment of any person as EPoA. The system needs to embed some safeguards, to help ensure Attorney’s conduct their duties lawfully. A history of financial mismanagement or abusive behaviour should be screened for.

The Australian Bankers Association also endorse the need for a national register of EPoA’s and have provided guidance for bankers on responding to requests from an Attorney or substitute decision-maker. The guidance includes requiring the Attorney to demonstrate that the Principal has lost capacity by presenting sufficient evidence (Australian Bankers Association, 2020). Research by Harries et al. (2014) showed that finance professionals raised their suspicion if the older person was confused and forgetful, but it was more difficult to detect abuse if the older person oversaw his or her own finances. Therefore, professionals need prompts to remind them to be constantly vigilant of possible abuse of an older person.

We also propose that Attorney’s should undergo essential training that includes detailed descriptions on their role and responsibilities, financial management and record keeping. This could be delivered through credentialled short courses, delivered by the justice departments or education agency. Given that the economic cost of elder financial abuse to the Australian economy was priced at $1.8 billion in 2009, it is well worth investing in building these resources (Jackson, 2009).
**Case Law**

Christodoulou v Christodoulou [2009] VSC

Cohen v Cohen [2016] NSWSC 336

Field v Loh [2007] QSC 350

Gillian Fisher-Pollard by her tutor Miles Fisher-Pollard v Piers Fisher-Pollard [2018] NSWSC 500

Great Investments Limited v Warner [2016] 243 FCR 516 at 538 [85].

O’Connor v Hart [1985] UKPC AC 100 1 NZLR 159, 171

R v Kerin [2013] SASCFC 56

Re Narumon Pty Ltd [2018]

Reily v Reily [2017].

Richard Brady Franks Limited v Price (1937) 58 CLR 112 at 142.

Smith v Glegg [2004] QSC 443t

Smith v Smith [2017] NSWSC 408

Tobin v Broadbent [1947] 75 CLR 378 at 401

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