

PARTIES: Vailas & Anor
v
Iliou & Ors

TITLE OF COURT: Supreme Court of the Northern Territory

JURISDICTION: Interlocutory Application

FILE NO: 255/94 (9424020)

DELIVERED: 4 July 1996

REASONS OF: Master Coulehan

CATCHWORDS:

PRACTICE - Northern Territory - documents - legal professional privilege - solicitor acting for more than one party - disclosure in favour of both.

Cases followed:-

Re Konigsberg (1989) 3 All ER 289
Trade Practices Commission v Sterling (1978) 36 FLR 244

REPRESENTATION:

Counsel:
Plaintiff: Mr Wyvill

Solicitors:
Plaintiff: Ward Keller

Mr Iliou in person

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

255/94 (9424020)

BETWEEN:

VAILAS and ANOR

Plaintiffs

and

ILIOU and ORS

Defendants

MASTER COULEHAN: RULING

(Delivered 4 July 1996)

The plaintiffs have sought production on subpoena of certain documents in the possession of MP (NT) Pty Ltd, a practising company which practises under the name of “De Silva Hebron”. The documents sought relate to the sale and purchase of land known as “Golden Sands” and a declaration of trust executed by the plaintiffs in relation to the land. It appears that De Silva Hebron acquired the documents as a result of a change in the practice known as “Greves Creswick (N.T.)” to De Silva Hebron.

De Silva Hebron have produced the documents but have claimed that some of those documents are the subject of legal professional privilege. The first defendant supports this claim. The documents relate generally to the sale and purchase of Golden Sands and the declaration of trust. There is evidence that Greves Creswick (N.T.) were acting for the plaintiffs and the defendants in relation to these transactions.

Confidential communications between a solicitor and his client for the purpose of obtaining legal advice or assistance are the subject of legal professional privilege. (**TPC v Sterling (1978) 36 FLR 244, 245**). Where two parties employ the same solicitor, communications between either of them and the solicitor, in his joint

capacity, must be disclosed in favour of the other (*Re Konigsberg (1989) 3 All E.R. 289*).

I have considered the documents and have concluded that they do not record communications the subject of legal professional privilege. The documents include a memo dated 6 July 1993 referring to a communication between Manuel Iliou and Mr Cook of De Silva Hebron. While Manuel Iliou is not a party to this proceeding he appears to have been communicating on behalf of himself and the first defendant in relation to transactions involving the plaintiffs, so that he was, in effect, communicating with Mr Cook in his joint capacity.

The documents are to be available for inspection and copying by the plaintiffs at the expiration of 7 days.