

CASENOTE: MOUNT BRUCE MINING PTY LIMITED V WRIGHT PROSPECTING PTY LIMITED AND WRIGHT PROSPECTING PTY LIMITED V MOUNT BRUCE MINING PTY LIMITED

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Legal Briefings

On 14 October 2015, the High Court in *Mount Bruce Mining Pty Limited v Wright Prospecting Pty Limited* and *Wright Prospecting Pty Limited v Mount Bruce Mining Pty Limited* unanimously held that Mount Bruce Mining Pty Limited is liable to pay royalties to Wright Prospecting Pty Limited and Hancock Prospecting Pty Limited (together, Hanwright) in respect of iron ore mined in the Eastern Range and Channar A areas of the Pilbara region of Western Australia.

INTRODUCTION

On 14 October 2015, the High Court in *Mount Bruce Mining Pty Limited v Wright Prospecting Pty Limited* and *Wright Prospecting Pty Limited v Mount Bruce Mining Pty Limited* [2015] HCA 37 unanimously held that Mount Bruce Mining Pty Limited (**MBM**) is liable to pay royalties to Wright Prospecting Pty Limited and Hancock Prospecting Pty Limited (**together, Hanwright**) in respect of iron ore mined in the 'Eastern Range' and 'Channar A' areas of the Pilbara region of Western Australia.

This case provides useful reminders in relation to:

1. the importance of clear drafting in private mining royalty agreements, and
2. the ongoing legal debate regarding the proper construction of a contract where the contract terms are unambiguous.

FACTS

In the 1960s and 1970s, Hanwright, MBM and Hamersley Iron Pty Limited entered into a range of agreements which concerned, amongst other things, the payment of royalties by MBM to Hanwright on '[o]re won by MBM from the MBM area' in exchange for MBM acquiring from Hanwright the entire rights to the 'MBM area'. The 'MBM area' was defined by reference to certain temporary reserves granted under the *Mining Act 1904* (WA). The obligation to pay the royalty extended to 'all persons or corporations deriving title through or under' MBM to the MBM area.

ISSUES

In this case, there were two main questions for consideration by the High Court:

1. whether the 'Eastern Range' and 'Channar A' areas were within the MBM area, and
2. if so, was the ore mined at Channar A mined by entities 'deriving title through or under' MBM.

MBM contended that the proper construction of the term 'MBM Area' referred to the rights it obtained from Hanwright in 1970 and not the actual area of land. MBM also argued for a narrow construction of the phrase 'through or under' with respect to the chain of title.

DECISION

The High Court confirmed the Court of Appeal's decision to the extent that the term 'MBM area' was defined by reference to the physical area of land originally transferred to MBM and encompassed Eastern Range and Channar A. The High Court also overturned part of the Court of Appeal's decision and held that iron ore was in fact being won from Channar A by entities 'deriving title through or under' MBM on the basis that a broader interpretation of the phrase 'through or under' should be preferred. The High Court considered that a 'close practical or causal connection' was sufficient and found that this connection did exist between MBM and the entities holding the relevant mining lease.

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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