



HIGH COURT OF AUSTRALIA

Public Information Officer

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AMCOR LIMITED v CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION,
NEVILLE GEORGE ANDERSON AND THE MINISTER FOR EMPLOYMENT AND
WORKPLACE RELATIONS

MINISTER FOR EMPLOYMENT AND WORKPLACE RELATIONS v CONSTRUCTION,
FORESTRY, MINING AND ENERGY UNION, NEVILLE GEORGE ANDERSON AND
AMCOR LIMITED

The transfer of employees from Amcor to one of its subsidiaries in a corporate restructure did not entitle the employees to redundancy payments, the High Court of Australia held today.

Until 1998, Amcor owned four paper mills, with the employees covered by a 1997 certified agreement between Amcor and the CFMEU. Amcor transferred the paper mills to a wholly owned subsidiary, Paper Australia Pty Ltd, but Amcor continued to employ the workers. In 2000 Amcor went through a demerger to concentrate on packaging, with its paper manufacturing business transferred to another subsidiary, PaperlinX Ltd, which was floated as a public company. Amcor gave notice terminating employment from 31 March 2000 in all Paper Australia businesses. Paper Australia, which was to become a wholly owned subsidiary of PaperlinX, wrote to all employees offering employment on the same terms and conditions, with all benefits carried over from Amcor, including those related to length of service and accrued leave entitlements. The offer was accepted by reporting for duty at their first shift on or after 1 April 2000 and virtually all employees did so.

The CFMEU claimed the workers were entitled under the certified agreement to redundancy payments due to the jobs with Amcor being terminated, regardless of whether they were offered immediate work with another company. The Federal Court and the Full Court of the Federal Court agreed. Amcor and the Minister, who intervened in the Full Court, appealed to the High Court. Amcor argued that they were not compelled to pay out the workers unless their positions in the business were abolished, whereas the positions remained unaffected by the demerger.

The High Court unanimously allowed the appeals. It held that none of the positions involved in the paper manufacturing business became redundant. Neither the sale of Amcor's assets nor the later termination of employment by Amcor meant that the work undertaken by the employees was no longer required by the company which conducted the business in which the positions existed. Their new employer, Paper Australia, owned and operated the business in which they worked before the demerger. As no job became redundant the redundancy provision in the certified agreement was not engaged.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*