

HIGH COURT OF AUSTRALIA

GLEESON CJ,
McHUGH, KIRBY, HAYNE AND CALLINAN JJ

Matter No B93/2003

EQUUSCORP PTY LTD & ANOR APPELLANTS

AND

GLENGALLAN INVESTMENTS PTY LTD RESPONDENT

Matter No B94/2003

EQUUSCORP PTY LTD & ANOR APPELLANTS

AND

CODD RESPONDENT

Matter No B95/2003

EQUUSCORP PTY LTD & ANOR APPELLANTS

AND

ANDERSON RESPONDENT

Matter No B96/2003

EQUUSCORP PTY LTD & ANOR APPELLANTS

AND

PRENDERGAST RESPONDENT

Matter No B97/2003

EQUUSCORP PTY LTD & ANOR APPELLANTS

AND

THORNTON RESPONDENT

Matter No B98/2003

EQUUSCORP PTY LTD & ANOR

APPELLANTS

AND

HGT INVESTMENTS PTY LTD

RESPONDENT

Equuscorp Pty Ltd v Glengallan Investments Pty Ltd [No 2]

Equuscorp Pty Ltd v Codd [No 2]

Equuscorp Pty Ltd v Anderson [No 2]

Equuscorp Pty Ltd v Prendergast [No 2]

Equuscorp Pty Ltd v Thornton [No 2]

Equuscorp Pty Ltd v HGT Investments Pty Ltd [No 2]

[2005] HCA 5

10 February 2005

B93-98/2003

ORDER

Orders in each matter:

1. *The respondent pay the appellants' costs of and incidental to the appeal to this Court.*
2. *The disposition of the costs of the proceedings otherwise is remitted to the Supreme Court of Queensland.*

On appeal from the Supreme Court of Queensland

Notice: This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication in the Commonwealth Law Reports.

CATCHWORDS

Equuscorp Pty Ltd v Glengallan Investments Pty Ltd [No 2]

Costs – Disposition of costs in an appeal to the High Court.

1 GLEESON CJ, McHUGH, KIRBY, HAYNE AND CALLINAN JJ. On 16 November 2004, the Court made orders in each of these matters allowing the appeal, setting aside the orders of the Court of Appeal of the Supreme Court of Queensland made on 27 September 2002 and making consequential orders including an order remitting the matter to the Supreme Court of Queensland for further consideration of the issues not decided at trial. In accordance with the request of the parties, the orders made on 16 November 2004 did not dispose of questions of costs but gave the parties an opportunity to make further written submissions on that subject.

2 The appellants ask for the costs of the appeals to this Court and an order that the respondents pay the appellants' costs in the courts below of the issues which have now been determined in the appellants' favour. The appellants submit that the costs of those issues should now be ordered as between party and party without prejudice to the appellants' liberty later to seek, in the Supreme Court, an order that those costs be allowed on a more generous scale.

3 Whether costs of the proceedings below should be awarded by reference to the disposition of particular issues rather than the determination of the litigation as a whole is a question better determined, in these cases, at the end of the litigation between the parties. Accordingly, in addition to the orders pronounced on 16 November 2004 there should be, in each matter, a further order that the respondents pay the appellants' costs of and incidental to the appeal to this Court and that the disposition of the costs of the proceedings otherwise be remitted to the Supreme Court of Queensland.