IN THE HIGH COURT OF AUSTRALIA.

Grunt & ors

v.

Great Boulder Pty Gold Mines Ltd

REASONS FOR JUDGMENT.

Judgment delivered at Melbourne

on 9th November 1937.

1/1937

GRUNDT AND OTHERS   v   THE GREAT BOULDER PROPRIETARY

GOLD MINES LIMITED

HIGH COURT OF AUSTRALIA   -   MELBOURNE

9th November 1937

ORAL JUDGMENT   LATHAM, C.J.

"In my opinion this application should be dismissed.
The First part of the application seeks a variation of the
judgment given by the Court with reference to the date which
has been prescribed by the Court in relation to an account
ordered by the Court.   The date was fixed as the 1st May
1935 as being a date upon which the Company became aware that
the tributers were working outside their ground.   It was held
that the Company was not entitled to remedy during the period
beginning on that date and extending to the time when notice
of cancellation of the tribute agreement was served on the
tributers.

It is now sought by the tributers to have an
alteration made in the judgment by substituting ....
(reads from application)........agreement.   The Court fixed
the date of the 1st May 1935 having regard to the evidence
which the tributers had given upon this very question.   It
was a question which was in issue from the beginning of the
proceedings.   Evidence was given upon it and I see no reason
why the matter should be re-opened.   The judgment was given
in Perth.   No application was made in relation to these matters
in Perth, or in Adelaide where the Court sat for some time
after its sittings in Perth, and it is now a month since the
judgment was given.

As to the second part of the application I see no
reason to vary the order made as to the/costs, which was a care-
fully considered order made in view of all the circumstances

of the case.   There is no right in a party, in effect, to
seek to appeal from a judgment given on appeal by this Court,
where there is no suggestion that there has been any failure to
consider the matter in all its aspects.

In my opinion the application should be dismissed
with costs."

ORAL JUDGMENT   DIXON. J.

I agree in the view that we ought not now to order
an enquiry as to the time at which the respondent Company first
became aware that the appellants were winning ore from a counter
lode outside the tribute.   I think the question when they became
so aware was fairly in issue before the Warden and there is
force in the objections to allowing it to be reconsidered.   On
the materials before us, I am satisfied that in fixing 1st May
1935 we took a date favourable to the appellants.

ORAL JUDGMENT   McTIERNAN. J.

"I agree, and I do not think any injustice is being
done to the tributers in refusing this application".