

IN THE HIGH COURT OF AUSTRALIA

A. RAGGATT, H. K. SLADE,
J. J. PURDEY and G. I. LAING

V.

CLAUDE WILLIAM HARRIS

REASONS FOR JUDGMENT

Judgment delivered at Melbourne

on MONDAY, 20TH MAY, 1963.

A. HOGGATT, H. K. SLADE,
J. J. PURDY AND G. J. LAING

v.

CLAUDE WILLIAM HARRIS

JUDGMENT
GRANT

JUDGMENT OF THE COURT
DELIVERED BY KITTO J.

CORAM:

KITTO J.
TAYLOR J.
OZEN J.

A. RAGGATT, H. K. SLADE,
J. J. PURDEY AND G. I. LAING

v.

CLAUDE WILLIAM HARRIS

We think the order should be vacated. We should state that we take this course because the order under appeal was made for reasons applicable to a cause of action which is not alleged in the statement of claim, and we vacate the order so that the parties, or either of them, may apply to the Supreme Court for leave to amend the pleadings, and in order that they may take any further steps in the Supreme Court that they may be advised including, perhaps, proceeding to trial without any interlocutory determination of questions of law divorced from the final ascertainment of the facts.

We do this so that they may take any such course without being in any way hampered, or restricted, by the order of Mr. Justice Gwynn.

For these reasons, the order will be that the appeal be allowed, the order under appeal be vacated, and we think that the costs of this appeal should be the plaintiff's costs in the action, the reason for that being that if the difficulties that have resulted in this order had been clear when special leave was applied for, special leave would probably not have been granted.