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SOUTHERN CROSS EXPLORATION N.L.

v.

OFFSHORE OIL N.L. and ANOTHER

ORDER

Appeal dismissed with costs.

SOUTHERN CROSS EXPLORATION N.L.

v.

OFFSHORE OIL N.L. and ANOTHER

JUDGMENT
(oral)

GIBBS C.J.
MURPHY J.
WILSON J.
BRENNAN J.
DEANE J.

SOUTHERN CROSS EXPLORATION N.L.

v.

OFFSHORE OIL N.L. and ANOTHER

It is the ordinary rule that an appellant will not be allowed to raise, on appeal, a ground upon which reliance was not placed in the court below if it is possible that evidence could have been given which could have prevented that ground from succeeding.

There is nothing to take the present case out of that ordinary rule. The Court is not persuaded that the proposed ground five would not raise considerations of fact in respect of which there may be relevant evidence that is not before the Court. In that regard, it is important to note that the second respondents maintain that there would be such evidence.

In particular, it appears possible that evidence could be given relating, inter alia, to the nature of the subject matter of the forfeiture and the surrounding circumstances existing at the time of the making of the contract. In accordance with this principle, it follows that the application to amend the notice of appeal must be refused.

SOUTHERN CROSS EXPLORATION N.L.

v.

OFFSHORE OIL N.L. AND ANOTHER

REASONS FOR JUDGMENT

Judgment delivered at Canberra (oral)
on 18th September 1984
