



## HIGH COURT OF AUSTRALIA

3 September 2025

PALMANOVA PTY LTD v COMMONWEALTH OF AUSTRALIA  
[2025] HCA 35

Today, the High Court dismissed an appeal from a decision of the Full Court of the Federal Court of Australia. The appeal concerned whether s 14(1) of the *Protection of Movable Cultural Heritage Act 1986* (Cth) ("the Act") renders liable to forfeiture, upon importation into Australia after the commencement of the Act, a protected object of a foreign country unlawfully exported from that foreign country before the commencement of the Act.

In June 2020, the appellant, an Australian company, purchased an archaeological artefact ("the Artefact") online from the Artemis Gallery in Colorado for a purchase price of USD17,340.00. As a result, the Artefact was shipped to Melbourne. Customs officers intercepted the Artefact upon entry into Australia. Following receipt by the Government of Australia, from the Government of Bolivia, of a request for the return of the Artefact to Bolivia, a Customs officer delivered the Artefact to an inspector appointed under s 28 of the Act, as a consequence of which the Artefact was taken by operation of s 27(2) of the Act to have been seized by the inspector at that time.

The appellant commenced an action against the respondent in the Federal Court of Australia, for recovery of the Artefact under s 37 of the Act. The primary judge found, on the balance of probabilities, that the Artefact was pre-Columbian in origin, having been manufactured by people of the Tiwanaku civilisation whose culture rose to prominence between 600 and 1,000 AD and centred around the ancient city of Tiwanaku on the shore of Lake Titicaca in what is now modern-day Bolivia. His Honour found the Artefact to form part of the "movable cultural heritage" of Bolivia and therefore to be a "protected object of a foreign country" within the meaning of the Act. His Honour further held that the Artefact was unlawfully exported either in 1934 or around 1950. Notwithstanding those findings, the primary judge held that the Artefact was not liable to forfeiture under s 14(1) of the Act, because s 14(1) did not apply to a protected object of a foreign country exported from the foreign country before the commencement of the Act on 1 July 1987. The respondent appealed to the Full Court. By majority, the Full Court held that the critical time for the operation of the provisions of Pt II of the Act was "the time of import into, or export from, Australia", and that the text of s 14(1) provided "no basis" to limit its application to exports from a foreign country after the commencement of the Act. Consequently, the Full Court ordered forfeiture of the Artefact.

The High Court held that s 14(1) of the Act does render liable to forfeiture, upon importation into Australia after the commencement of the Act, a protected object of a foreign country unlawfully exported from that foreign country before the commencement of the Act. The context of the Act, having been enacted with a view to bringing Australia into conformity with the obligations of a State Party to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) prior to Australia acceding to that Convention, furnishes no basis for construing s 14(1) to apply only to a protected object of a foreign country that was exported from that country on or after the commencement of the Act. The temporal focus of s 14(1) of the Act, being the time of the importation of an object into Australia, is consistent with s 14(1) containing no limitation as to the timing of the export of the protected object from a foreign country.

*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.*