



HIGH COURT OF AUSTRALIA

3 December 2025

BADARI & ORS v MINISTER FOR HOUSING AND HOMELANDS & ANOR
[2025] HCA 48

Today, the High Court of Australia granted special leave to appeal and allowed the resulting appeal (in proceeding D1/2025) from an order of the Court of Appeal and the Full Court of the Supreme Court of the Northern Territory (the "Court of Appeal"). The application for special leave to appeal was heard on 3 September 2025, together with a related appeal (in proceeding D7/2025), in which the High Court delivered judgment separately.

The appeal proposed in the special leave application concerned a determination made by the Minister for Housing and Homelands on 1 February 2023, fixing the rent payable in dwellings in various remote communities, pursuant to s 23 of the *Housing Act 1982* (NT) (the "Fourth Determination"). The Fourth Determination was made after the applicants – each of whom were party to tenancy agreements entered into in respect of dwellings affected by the determination – had commenced in the Court of Appeal an appeal from a judgment of the Supreme Court of the Northern Territory, which had dismissed an application for judicial review of three earlier determinations (the "COA Appeal").

The applicants commenced a new proceeding in the Supreme Court in which they challenged the validity of the Fourth Determination, including seeking a declaration of right in respect of the Fourth Determination (the "Fourth Determination Proceeding"). The application for that declaration was referred for determination by the Full Court (the "Referral"). Both the COA Appeal and Referral were called on for hearing together. At that hearing, the Court of Appeal, by consent, declined to accept the Referral. Thereafter, no oral submissions were made to the Court of Appeal regarding the Fourth Determination Proceeding. Subsequently, the Court of Appeal purported to determine the Referral and made an order dismissing the Fourth Determination Proceeding. The applicants proposed to challenge the dismissal of the Fourth Determination Proceeding in the High Court.

The High Court unanimously held that the Court of Appeal, having declined to accept the Referral under the *Supreme Court Act 1979* (NT), did not have jurisdiction to hear and determine the relief sought in the Fourth Determination Proceeding. Accordingly, the Court ordered that the Court of Appeal's order dismissing the Fourth Determination Proceeding be set aside – and held that the Fourth Determination Proceeding remains extant and will need to be heard and determined by the Supreme Court, unless otherwise resolved.

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.