

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application - Form 15 - Rule 8.01(1)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 27/08/2024 4:18:00 PM AEST
Date Accepted for Filing: 27/08/2024 5:42:00 PM AEST
File Number: NSD1174/2024
File Title: SHASHANK BIST & ANOR v CYAN STONE CLYDESDALE ESTATE 1
PTY LTD ACN 610 208 967 & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Originating application

No. _____ of 20 _____

Federal Court of Australia
District Registry: New South Wales
Division: General

Mr and Mrs Bist

Applicants

Cyan Stone Clydesdale Estate 1 Pty Ltd ACN 610 208 967 and others named in the schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Shashank Bist and Natalia Bist, Applicants
Prepared by (name of person/lawyer) Quintin Rares, Sasha Steinhoff and Robert Ishak
Law firm (if applicable) William Roberts Lawyers
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Address for service Level 22, 66 Goulburn Street, Sydney NSW 2000
(include state and postcode)



Details of claim

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant:

1. Repeats and relies on the relief claimed in the concise statement.

Claim for interlocutory relief

The Applicant also claims interlocutory relief:

2. Repeats and relies on the relief claimed in the interlocutory application filed on 27 August 2024.

Representative action

The Applicant sues in a representative capacity.

The common questions can be found in schedule two of the originating application.

Applicants' address

The Applicant's address for service is:

Place: Level 22, 66 Goulburn Street, Sydney NSW 2000

Email: robert.ishak@williamroberts.com.au

The Applicant's address is C/- Level 22, 66 Goulburn Street, Sydney NSW 2000.

Service on the Respondents

It is not intended to serve this application on any Respondent.



Date: 27 August 2024

A handwritten signature in blue ink, appearing to be "R. Ishak", written over a horizontal dotted line.

Signed by Robert Ishak
Lawyer for the Applicants

Date: 27 August 2024

A handwritten signature in blue ink, appearing to be "R. Ishak", written over a horizontal dotted line.

Signed by Robert Ishak



**Schedule one**

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: General

Respondents

Second Respondent: Cyan Stone Clydesdale Estate 2 Pty Ltd ACN 610 209 106
Third Respondent: Cyan Stone Clydesdale Estate 3 Pty Ltd ACN 610 210 494
Fourth Respondent: Cyan Stone Clydesdale Pty Ltd ACN 610 008 172
Fifth Respondent: Cyan Stone Clydesdale Development Pty Ltd ACN 610 008 467
Sixth Respondent: Cyan Stone Clydesdale Holdings Pty Ltd ACN 610 008 510
Seventh Respondent: Astro Fort Clydesdale Pty Ltd ACN 675 838 507
Eighth Respondent: Astro Fort Holdings Pty Ltd ACN 675 830 270
Ninth Respondent: Marvia Joncos Holdings Pty Ltd ACN 671 948 502

Date: 27 August 2024



Schedule Two

The questions of law or fact common to the claims of the group members are:

1. Whether the contracts of sale are specifically performable.
2. Whether the entry into the contracts for sale and the payment of a deposit and or stamp duty entitles the purchaser to specific performance.
3. Whether the entry into the contracts, and the payment of a deposit and or stamp duty, entitle the purchaser to a constructive, resulting or implied trust.
4. Whether the respondents informed each Group Member of:
 - a. any sale of their properties or sale of any land which contained their properties, and or
 - b. any assignment or novation in relation to the contracts of sale, and or
 - c. any rescission of the contracts for the sale.
5. Whether the contracts of sale have been validly assigned.
6. Whether the vendors or any valid assignee thereof specified a time by which the services in the contract of sale would be provided and if it did, when it was so specified.
7. Whether supply has occurred within the period of time specified in the previous paragraph.
8. Whether supply of the services in the contract of sale was before the time payment or other consideration was accepted.
9. Whether the time within which services are to be supplied was to be determined in a manner agreed to by the consumer and supplier.
10. Whether supply has occurred within the period of time specified in the previous paragraph.
11. What a reasonable time for supply of the services was.
12. Whether supply has occurred within the period of time specified in the previous paragraph.
13. Whether the services the subject of the contracts for sale were provided at all.
14. Whether the sale of land under the contracts for sale is a supply of a service.
15. Whether the vendor accepted payment or other consideration for the supply of the services.



16. Whether the Group Members are consumers.
17. Whether s 36(4) of the ACL was breached by the vendors.
18. Whether s 64 of the ACL was breached by the vendors.
19. Whether the supply of the services above was in trade or commerce.
20. To the extent the factors in s 22 of the ACL (or other circumstances the Court considers relevant) apply to the group members as a whole, and to the extent that they do, whether and how those factors apply to the dealings between the group members and the respondents.
21. Whether the contracts were standard form.
22. The manner in which the respondents have performed the contracts for sale.
23. Whether Astro Fort engaged in the tort of inducing breach of contract or any of its elements.
24. Whether the respondents or any two or more of them are liable in conspiracy.
25. Whether exemplary damages are available.
26. The quantum of exemplary damages.
27. Whether aggravated damages are available.
28. The method of awarding damages.
29. Any further or other common question the Court deems fit.