

Determination of native title

Gandangara Local Aboriginal Land Council v Minister for Lands

[2009] FCA 1136

Jagot J, 30 September 2009

Issue

The issue in this case was whether the Federal Court should make a declaration that no native title exists in relation to certain land in accordance with s. 86G the *Native Title Act* 1993 (Cwlth) (the NTA). The court concluded the declaration should be made.

Background

The declaration sought related to a non-claimant application made under the NTA by the Gandangara Local Aboriginal Land Council (the council). It covered a parcel of land transferred in freehold to the council by the State of New South Wales on or around 31 March 2003 pursuant to the *Aboriginal Land Rights Act 1983* (NSW). As the court noted, there were certain restrictions on dealings in a memorandum on the title to the land. Compliance with one of those restrictions was the reason for seeking a determination that no native title existed. Notice of the application was published in accordance with s. 66 of the NTA with the notification period ending on 10 May 2009. There was no response to the notice. Both of the respondents (the Minister for Lands and NTSCORP Ltd) indicated they did not oppose orders in, or consistent with, the terms sought by the council. Justice Jagot was satisfied the order sought was within the court's power and that the other requirements of s. 86G were met—at [6], [7] and [8].

Decision

His Honour decided to make a declaration that no native title existed in relation to the area subject to the application in the terms sought by the council.