

***Bell v NSW Minister for Lands* [2010] FCA 1056**

Jagot J, 29 September 2010

Issue

The Federal Court had to decide whether an unregistered claimant application should be dismissed under s. 190F(6) of the *Native Title Act 1993* (Cwlth) (NTA).

Background

The Native Title Registrar's delegate found the claim made in the Ngunawal People's claimant application must not be accepted for registration because (among other things) it did not meet all of the s. 190B(5) conditions. The court was notified of this as required under s. 190D(1) and then asked for submissions on whether it should be dismissed pursuant to s. 190F(6). The applicant then sought leave to amend. The NSW Minister for Lands submitted the court should dismiss the claim under s. 190F(6) because:

- the proposed amendments did not remedy the relevant deficiencies;
- there were continuing substantive difficulties with the proposed amended application.

The applicant did not respond but, instead, indicated a wish to withdraw the application.

Decision

Justice Jagot was satisfied that the power in s. 190F(6) was available and dismissed the application because it:

[I]s not likely to be amended in a way that would lead to a different outcome once considered by the Registrar. The same circumstances provide the basis for my opinion that there is no other reason why the application should not be dismissed — at [11].