



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: M12/2022
File Title: BHP Group Limited v. Impiombato & Anor
Registry: Melbourne
Document filed: Form 27B - Appellant's chronology
Filing party: Appellant
Date filed: 08 Apr 2022

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. 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 and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

ON APPEAL FROM THE FULL COURT OF THE FEDERAL COURT OF
AUSTRALIA

BETWEEN: BHP GROUP LIMITED
Appellant

10 and

VINCE IMPIOMBATO
First Respondent

KLEMWEB NOMINEES PTY LTD
(AS TRUSTEE FOR THE KLEMWEB SUPERANNUATION FUND)
Second Respondent

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APPELLANT'S CHRONOLOGY

Part I: Certification

This chronology is in a form suitable for publication on the internet.

Part II: Chronology

	Date	Event	Reference
1.	6 November 2015	The Fundão Dam fails at around 4.30am AEST.	FCA [6]; CAB 11
2.	6 November 2015	BHP Group Limited (ACN 004 028 077) (previously named BHP Billiton Limited)	FCA [6]; CAB 11

	Date	Event	Reference
		(BHP) makes an announcement in respect of the failure of the Fundão Dam.	
3.	9 November 2015	BHP makes a further announcement in respect of the failure of the Fundão Dam.	FCA [6]; CAB 11
4.	31 May 2018 – 24 September 2018	In this period, three representative proceedings are commenced in the Federal Court of Australia (FCA) against BHP concerning the same subject matter. The proceedings are commenced by: <ul style="list-style-type: none"> • Mr Vince Impiombato (Impiombato Proceeding); • Klemweb Nominees Pty Ltd, as trustee for the Klemweb Superannuation Fund (Klemweb Proceeding); and • Los Angeles County Employees Retirement Association (LACERA Proceeding). 	
5.	19 July 2019	The Full Court orders the consolidation of the Impiombato Proceeding and Klemweb Proceeding (Consolidated Proceeding). Earlier, in December 2018, the FCA had permanently stayed the Klemweb Proceeding and temporarily stayed the LACERA proceeding.	
6.	16 August 2019	Impiombato (First Respondent) and Klemweb (Second Respondent) (together, Respondents) file a Consolidated Originating Application and a Consolidated Statement of Claim.	BFM 4
7.	26 November 2019	Hearing of the interlocutory application filed by BHP seeking an order that the Consolidated Proceeding be stayed pending determination of criminal proceedings in Brazil relating to the failure of the Fundão Dam (Stay Application).	
8.	17 March 2020	The FCA hands down judgment dismissing the Stay Application.	
9.	12 May 2020	BHP files an interlocutory application seeking:	

	Date	Event	Reference
		<p>(i) a declaration that Part IVA of the <i>Federal Court of Australia Act 1976</i> (Cth) does not apply to the claims brought by Impiombato and Klemweb on behalf of shareholders of BHP and/or BHP Group Plc (BHP Plc) who are not residents in Australia (Extraterritorial Contention);</p> <p>(ii) an order that such shareholders be excluded from the class of group members, or the Consolidated Proceedings be stayed until the Consolidated Statement of Claim is amended to exclude such shareholders (Discretion Contention);</p> <p>(iii) an order that the claims of BHP Plc shareholders be struck out (Strike Out Contention),</p> <p>(Group Member Application).</p>	
10.	7 – 8 September 2020	Hearing of the Group Member Application before Moshinsky J.	
11.	7 September 2020	Respondents file an Amended Consolidated Statement of Claim.	BFM 11
12.	25 November 2020	Respondents make an application (via email) seeking leave to refer the FCA to a recent judgment of the High Court of Justice in England in relation to a strike out application by BHP Plc and BHP Ltd in that jurisdiction (25 November Application).	
13.	27 November 2020	The Court hands down judgment dismissing the Group Member Application and the 25 November Application (<i>Impiombato v BHP Group Limited (No 2)</i> [2020] FCA 1720) (Group Member Judgment).	CAB 5, 67

	Date	Event	Reference
14.	11 December 2020	BHP files an application for leave to appeal the Group Member Judgment (Full Court Appeal).	
15.	14 December 2020	Hearing before Moshinsky J, at which orders are made for BHP to pay the Respondents' costs incidental to the Group Member Application.	
16.	21 May 2021	Hearing of the Full Court Appeal before Middleton, McKerracher and Lee JJ.	
17.	3 June 2021	The Full Court: <ul style="list-style-type: none"> • grants leave to appeal in respect of the Extraterritorial Contention but dismisses the appeal; and • dismisses the application for leave to appeal in respect of the Discretion Contention and the Strike Out Contention, <i>(BHP Group Limited v Impiombato (2021) 151 ACSR 634 (Full Court Judgment).</i>	CAB 75, 100
18.	18 June 2021	BHP retrospectively files a Notice of Appeal in respect of the Full Court Appeal regarding the Extraterritorial Contention.	CAB 69
19.	30 June 2021	BHP files an application for special leave to appeal part of the Full Court Judgment relating to the Extraterritorial Contention to the High Court of Australia (Special Leave Application).	
20.	18 February 2022	Hearing of the Special Leave Application before Kiefel CJ and Keane J. The High Court of Australia grants BHP special leave to appeal that part of the Full Court Judgment relating to the Extraterritorial Contention	CAB 117
21.	4 March 2022	BHP files and serves Notice of Appeal to the High Court of Australia.	CAB 119

Dated 8 April 2022



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