



HIGH COURT OF AUSTRALIA

Public Information Officer

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TRUST COMPANY OF AUSTRALIA LIMITED v COMMISSIONER OF STATE REVENUE

The High Court of Australia today allowed an appeal against the double imposition of stamp duty on the acquisition of a parcel of Brisbane riverside land for a managed investment scheme.

Stamp duty of \$654,475 was charged twice – on a contract for sale for \$17.5 million of the land on Coronation Drive, Milton, and on the transfer to Trust Company of Australia of the land. Under Commonwealth law, such schemes require the appointment of an independent party to acquire and hold scheme property.

The contract was between three parties: the vendor, the scheme investment manager Cromwell Property Securities Ltd to act as custodian of the scheme's assets, and TCA.

TCA held the registered title to the land on trust for Cromwell which in turn was trustee for the syndicate of investors whose money funded the purchase of the land. The Commissioner assessed stamp duty on the basis that Cromwell, not TCA, was the purchaser under the contract but the transfer was to TCA.

The question was whether the transfer to TCA was a transfer to the purchaser within the meaning of section 54(6) of the Queensland Stamp Act. If so, only one amount of stamp duty was payable; if not, then stamp duty was payable on both the purchase and the transfer. The Queensland Court of Appeal agreed with the Commissioner, holding that TCA was not the purchaser for the purposes of the Stamp Act.

The High Court, by a 4-1 majority, allowed the appeal and held that for the purposes of the Stamp Act the transfer was to the purchaser.

- *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.*