



HIGH COURT OF AUSTRALIA

1 May 2013

AMIRAM DAVID WEINSTOCK & ANOR v TAMAR RIVQA BECK & ANOR
[2013] HCA 14

Today the High Court unanimously allowed an appeal by Mr Amiram Weinstock and Mrs Helen Weinstock regarding the purported appointment of Mrs Weinstock as a director of LW Furniture Consolidated (Aust) Pty Ltd. The Court held that under s 1322(4)(a) of the *Corporations Act 2001* (Cth) Mrs Weinstock's appointment could be validated even though Mr Weinstock had not been properly appointed as a director when he purported to appoint her as an additional director.

LW Furniture was incorporated in 1971. Its articles of association required that there be no fewer than two directors. If the number of directors dropped below two, the continuing director could appoint an additional director. The two initial directors were the parents of Mr Weinstock and his sister, Mrs Tamar Beck.

In 1973, Mr Weinstock and Mrs Beck were appointed additional directors of LW Furniture until the next annual general meeting of the company. Their appointment as directors ended before the meeting started. At that meeting (and those following), it was resolved to reappoint directors retiring at that meeting. Given Mr Weinstock and Mrs Beck had retired before the meeting began, the resolution did not apply to them and they were not reappointed.

However, both Mrs Beck and Mr Weinstock acted as if they had been validly appointed. In 1982, Mrs Beck resigned as a director of the company. In 2003, the father of Mr Weinstock and Mrs Beck died. Their mother could not hold office as she was unable to look after her own affairs, and Mr Weinstock continued to act as the only director of the company. He purported to appoint his wife, Mrs Weinstock, as a director of the company. Mrs Beck challenged this appointment on the basis Mr Weinstock was not a director.

In the Supreme Court of New South Wales, Barrett J made an order under s 1322(4)(a) of the Act declaring the appointment of Mrs Weinstock valid. On appeal, the Court of Appeal set aside this order. By special leave, Mr and Mrs Weinstock appealed to the High Court.

The High Court allowed the appeal. The Court held that the purported appointment of Mrs Weinstock was a contravention of LW Furniture's constitution and that s 1322(4)(a) of the Act gave power to a court to declare the appointment valid. The Court remitted the matter to the Equity Division of the Supreme Court of New South Wales for determination.

- *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.*