



## HIGH COURT OF AUSTRALIA

4 September 2019

### BRISBANE CITY COUNCIL v AMOS [2019] HCA 27

Today the High Court unanimously dismissed an appeal from a decision of the Court of Appeal of the Supreme Court of Queensland. The High Court unanimously upheld the conclusion of the majority of the Court of Appeal that s 26(1) of the *Limitation of Actions Act 1974* (Qld) does not extend or exclude the operation of s 10(1) of that Act. This means that a defendant is entitled to plead the shorter limitation period under s 10(1) where those limitation periods overlap.

The appellant, Brisbane City Council, sought to recover overdue and unpaid rates, with interest, which were levied upon the rateable land of the respondent, Mr Amos, by rates notices issued in the period from 30 April 1999 to 9 January 2012. Under the *Local Government Act 1993* (Qld) and later the *City of Brisbane Act 2010* (Qld), overdue and unpaid rates are a charge on the land. At issue was which of two potentially applicable limitation periods, a 12 year limitation period under s 26(1) of the *Limitation of Actions Act* or a six year limitation period under s 10(1)(d) of the *Limitation of Actions Act*, applied to the Council's claim. Relevantly to this appeal, s 26(1) applies a limitation period for debts created by statute and secured by charge, whilst s 10(1)(d) applies a limitation period to "an action to recover a sum recoverable by virtue of any enactment".

Before the late nineteenth century, any overlap that would otherwise have occurred between these provisions was resolved by applying the limitation period in the predecessor provision to s 26(1) only to real or proprietary claims and confining the limitation period in the predecessor provision to s 10(1)(d) to personal claims. However, from the late nineteenth century, the limitation period for sums of money secured by charge was extended also to bar personal claims. In *Barnes v Glenton* [1899] 1 QB 885, the Court of Appeal of England and Wales held that while there may be overlapping limitation periods for a personal claim to recover a sum secured by a mortgage or other charge, any longer limitation period in the predecessor provision to s 26(1) would not extend the shorter limitation period applicable under the predecessor to s 10(1)(d).

When Parliament re-enacts provisions with a well-understood meaning, it will generally be assumed that Parliament intended the words to have that meaning. *Barnes v Glenton* had been consistently followed by judicial authority and textbook writers when the *Limitation of Actions Act* was enacted in 1974 in light of this history. The more recent authorities, including *ANZ Banking Group Limited v Douglas Morris Investments Pty Ltd* [1992] 1 Qd R 478, do not gainsay the approach set out in *Barnes v Glenton*. On this basis, the High Court dismissed the appeal.

- *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.*