


CASE SUMMARY: Victoria International Container Terminal Ltd v Lunt [2021] HCA 11

Description: Degree to which abuse of process constitutes improper purpose warranting permanent stay.

	
41	High Court and Federal Court
41K1209-K1302	Federal Court
41K1209-K1284	Original jurisdiction
41K1227-K1284	Procedure and evidence
41K1260	Abuse of process

what constitutes — collateral purpose — whether sufficient to warrant permanent stay of proceedings

Responses to suspected abuses of process

Held: (by the court)

(1) The fundamental responsibility of a court is to do justice between parties to the matters coming before it. This may require the court to protect the due administration of justice by protecting itself from abuse of its processes.

(2) The power to stay or summarily dismiss proceedings because one party has abused the processes of the court is concerned to prevent injustice and the power is properly exercised where the conduct of the moving party is such that the abuse may prevent or stultify the fair and just determination of a matter.

(3) Where proceedings are brought for an improper purpose, the abuse of the court's processes cannot be remedied by any means other than a stay of proceedings. However where a court is able to cure any apprehended prejudice to a fair trial by less draconian means, the court's responsibility to the parties and the community requires that those other means are deployed so that the matter before the court is heard and determined in accordance with the justice of the case.

(4) An order for costs may be sufficient to cure the prejudice to the other party, or where a party's misconduct amounts to a contempt of court, vindication of the court's authority may require punishment of the miscreant. The remedy of a stay of proceedings, however, is concerned not with punishment but with the protection of the court's ability to determine the matter in dispute fairly and justly.

(5) The court's powers in relation to abuse of process are not informed by considerations of deterrence and punishment but are exercised in order to protect the integrity of the court's own processes.

(6) Where rules as to standing are so broad as to enable a number of plaintiffs to bring proceedings, the choice of a plaintiff who is likely to enjoy some legitimate forensic or juridical advantage over other candidates is a use of the processes made available by the law, not an abuse of process.

(7) A legitimate arrangement as to funding and direction of the proceedings would not be objectionable. Where the existence of such arrangements is well-known to other parties, it could not be said that a fair trial could not be had. That being so, the administration of justice could not be brought into disrepute by allowing the proceedings to continue to a determination on their merits.

(8) When considering an abuse of process constituted by an improper purpose, it is not enough that some unworthy or reprehensible motive exists for bringing the action. The issue is whether the litigant's immediate purpose in bringing the proceedings was not within its scope and improper.