










Using KeyCite for analysing cases

The KeyCite citation network is integrated with the Key Number system to verify whether a case is good law, determine the depth of treatment from subsequent cases and legislation and provides citing references to support your legal argument.


Document tab

The screenshot shows the Westlaw Australia interface for the case **Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3)**. Callout 1 points to the case title and citation information. Callout 2 points to the functional tools bar. Callout 3 points to the case details section. Callout 4 points to the case version dropdown menu.

1. **Case Name or Title** with case information such as court, date and parallel citations.
2. **Functional tools** and delivery options.

	Search document text for a term located in the document
	Show the KeyCite status for citations within the document
	Annotate the document with a document-level note
	Create a KeyCite Alert to follow updates with the case
	Copy link or citation
	Save the case to Folders
	Email, print, or download the case

3. **KeyCite Flags** highlight that a point of law in the case has been treated negatively. The name of the case with the most significant negative treatment is shown.
 - A **yellow flag** warns that the decision has some negative history but has not been reversed or overruled.
 - A **red flag** warns that the case may not be good law, indicating that the decision has been reversed or overruled.
4. The **Court-ready version of the unreported judgment** can be downloaded in Microsoft Word format. Parallel citations are listed and are hyperlinked to on-screen and downloadable, Court-ready versions, if you subscribe to them.
5. **Australian Digest** entries showing key legal issues and link to cases citing the case on the issue
 - a. **Key Number System** classifications outline key points of law. Click on links to find other cases from the same court on the point of law.

Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3) 

Western Australian Court of Appeal • 17 August 2012 • [2012] WASCA 157 • (2012) 44 WAR 1 • (2012) 270 FLR 1 • (2012) 89 ACSR 1 • 2012 WL 3553752 (Approx. 673 pages)

Document Negative Treatment (7) History (7) Citing References (342) Table of Authorities Powered by KeyCite

11k351

3 **Bankruptcy** **5**

execution of guarantees and indemnities

Did the execution of the guarantees and indemnities operate as settlements of property?

Under contracts of guarantee and indemnity, certain respondent companies guaranteed debts owed by other companies to the appellant banks and indemnified the banks against certain losses. The primary judge held that the guarantees effected settlements of property by the guarantors within the meaning of the [Bankruptcy Act 1966 \(Cth\)](#), s 120, and that they contravened the section with the consequence that they were void against the liquidators of the relevant respondent companies pursuant to the [Corporations Act 2001 \(Cth\)](#), s 565.

Held: (allowing an appeal against this finding)

- (1) (by Drummond AJA) An essential feature of a settlement of property within the meaning of the [Bankruptcy Act](#), s 120, is that the bankrupt has divested himself or herself of beneficial ownership of an item of identifiable property and invested some other person with its ownership. Here, the banks' rights to enforce the liabilities against the guarantor (being property in the form of a chose in action) only came into existence upon execution of the guarantee. As soon as that occurred, the banks became owners of the chose in action. At no time anterior to the creation of that property did the guarantor have any interest in the chose in action of which it could divest itself in order to vest ownership in the banks. Accordingly, the execution of the guarantees did not settle any property on the banks within the meaning of s 120.
- (2) (by Carr AJA) The rights created by the guarantees were not rights previously enjoyed by the guarantors and did not constitute property for the purposes of the Act.
- (3) (by Lee AJA contra) The guarantees both created property in the form of a chose in action and disposed of that property to the banks. The liabilities undertaken by the guarantors in the creation and disposition of the choses introduced to the estate of each guarantor contingencies that had the effect of diminishing the worth of the estate of the guarantor notwithstanding that the guarantor retained the assets of the estate. Accordingly, there was a settlement within the meaning of s 120.

[1 Case that cites this case on this point of law](#)

11 **a**

11k245-k453	Administration of property
11k346-k411	Effect of bankruptcy on antecedent transactions
11k351-k354	Undervalued transactions and settlements
11k351-k352	What is a transfer of property or settlement
11k351	Generally

6. Case information such as Words and Phrases Judicially considered, party names and legal representatives and court-supplied summary (headnotes).

Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3)

Western Australian Court of Appeal · 17 August 2012 · [2012] WASCA 157 · (2012) 44 WAR 1 · (2012) 270 FLR 1 · (2012) 89 ACSR 1 · 2012 WL 3553752 (Approx. 672 pages)

Fullscreen

Document

Negative Treatment (6)

History (6)

Citing References (122)

Table of Authorities

Powered by KeyCite

Document highlights

Words and Phrases Judicially Considered
"intent to defraud", "intent to defraud"

6



Party Names
Westpac Banking Corporation, SG Australia Ltd, National Australia Bank, HSBC Bank Australia Ltd, Standard Chartered Bank, Commonwealth Bank of Australia, Lloyds TSB Bank plc, Banco Espirito Santo SA, Seb AG, Bank of Scotland plc, Credit Agricole SA, Unicredit Bank Austria AG, Credit Lyonnais, Dresdner Bank AG, KBC Bank Verzekering Holding NV, Skopbank, DZ Bank Ag Deutsche Zentral-Genossenschaftsbank, Calyon, Genra Ltd, The Gulf Bank KSC, The Bell Group Ltd (in liq), The Bell Group Ltd (in liq) as trustee separately for each of Dolfinne Pty Ltd (in liq) Industrial Securities Pty Ltd (in liq) Maranoa Transport Pty Ltd (in liq) Neoma Investments Pty Ltd (in liq), Bell Group Finance Pty Ltd (in liq) (receiver and manager appointed), Bell Group (UK) Holdings Ltd (in liq) (in administrative receivership), Bell Publishing Group Pty Ltd (in liq), Bell Group NV (in liq), Ambassador Nominees Pty Ltd (in liq), Belcap Enterprises Pty Ltd (in liq), Bell Bros Pty Ltd (in liq), Bell Equity Management Ltd (in liq), Dolfinne Pty Ltd (in liq), Great Western Transport Pty Ltd (in liq), Harlesden Finance Pty Ltd (in liq), Industrial Securities Pty Ltd (in liq), Maradol Ltd (in liq), Maranoa Transport Pty Ltd (in liq), Wanstead Pty Ltd (in liq), Western Transport Pty Ltd (in liq), Wigmores Tractors Pty Ltd (in liq), W & J Investments Ltd (in liq), Dolfinne Securities Pty Ltd (in liq), Neoma Investments Pty Ltd (in liq), TBGL Enterprises Ltd (in liq), Wanstead Securities Pty Ltd (in liq), Waon Investments Pty Ltd (in liq), Western Interstate Pty Ltd (provisional liquidator appointed), Geoffrey Frank Totterdell in his capacity as liquidator (with ALJ Woodings) of each of the 1st, 7th, 8th, 9th, 11th, 15th, 16th, 17th, 19th, 20th, 22nd, 23th, 24th Respondents, Antony Leslie John Woodings in his capacity as sole liquidator of the Third, Fifth, Tenth, Twelfth, Thirteenth, Fourteenth, Eighteenth, Twenty-first and Twenty-fourth Respondents, Garry John Trevor in his capacity as liquidator of the Sixth Respondent, The Law Debenture Trust Corporation plc as trustee of the BGNV Trusts as defined in the schedule to the writ of summons in CIV 1464 of 2000

Legal Representatives
All Appellants: *Mr T F Bathurst QC, Mr D E J Ryan SC, Mr H K Insall SC, Mr S Habib SC, Mr M C Goldblatt, Dr R S Derham, Mr D F C Thomas & Ms K F Banks-Smith*; First to Fifth, Seventh to Twenty-eighth and Thirtieth Respondents: *Mr N J Young QC, Mr C G Colvin SC, Mr S M Davies SC, Ms E A Cheeseman, Mr J Barber & Mr D Jackson*; Sixth And Twenty-ninth Respondents: *Mr N O'Bryan SC & Mr A A D'Arcy*; All Appellants: *Freehills*; First to Fifth, Seventh to Twenty-eighth and Thirtieth Respondents: *Ashurst Australia*; Sixth And Twenty-ninth Respondents: *Lipman Karas*

Court Supplied Summary
Agency — Implied agency — Imputation of knowledge of agent to principal — Syndicate of banks — Agency of lead bank — Agent for limited purpose — Distinction between imputed knowledge and inferred actual knowledge

Negative treatment tab

7. The **Negative Treatment tab** displays negative direct litigation history and citing references for the case.
 - a. **Negative Direct History** shows negative events or decisions in the same litigation or proceedings.
 - b. **Negative Citing References** from other litigation or proceedings are listed by most negative treatment, indicated by the bars in the Depth column.
 - c. To view where the citing references discuss this case, set the display information to **most** and click on the highlighted hyperlink to read further.

Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3)  

Western Australian Court of Appeal · 17 August 2012 · [2012] WASCA 157 · (2012) 44 WAR 1 · (2012) 270 FLR 1 · (2012) 89 ACSR 1 · 2012 WL 3553752 (Approx. 672 pages)

Document **Negative Treatment (6)** History (6) Citing References (122) Table of Authorities Powered by KeyCite

KeyCite Negative Treatment 7

Negative Direct History

The KeyCited document has been negatively impacted in the following ways by events or decisions in the same litigation or proceedings:

- a **1. Westpac Banking Corporation v Bell Group Ltd (in liq) (No 3)** KEYCITED
 - [2012] WASCA 157, (2012) 44 WAR 1, (2012) 270 FLR 1, (2012) 89 ACSR 1, 2012 WL 3553752, WACA, 17 Aug. 2012, (NO. CACV 52 of 2009)
 - Special leave to appeal granted by*
- 2. Westpac Banking Corporation v The Bell Group** MOST NEGATIVE
 - [2013] HCATrans 49, 2013 WL 1409279, HCA, 15 Mar. 2013, (NO. P29/2013)

Negative Citing References (4)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth	Digest
<input type="checkbox"/> Not Followed by	1. Hasler v Singtel Optus Pty Ltd [2014] NSWCA 266, (2014) 87 NSWLR 609, (2014) 311 ALR 494, (2014) 101 ACSR 167, (2014) 32 ACLC 14-066, 2014 WL 4146954, NSWCA, (NO. 2013/333672, 2013/342608, 2013/343099) I have had the advantage of reading in draft the judgment to be delivered by Leeming JA. I am indebted to his Honour for his concise and comprehensive exposition. I agree that... ...NSWCA 273 Twinsectra Ltd v Yardley [2002] 2 AC 164 Walker Corporation Pty Ltd v Sydney Harbour Foreshore Authority [2008] HCA 5; 233 CLR 259 Westpac Banking Corporation v Bell Group Ltd (No 3) [2012] WASCA 15744 WAR 1 Willett v Thomas [2012] NSWCA 97 Williams v Central Bank of...	15 Aug. 2014	Case	<div style="width: 100%; height: 10px; background-color: #ccc; position: relative;"> <div style="width: 100%; height: 100%; background-color: #008000;"></div> </div>	—
<input type="checkbox"/> Distinguished by	2. Re ACN 092 138 442 Pty Ltd (in liq) [2013] NSWSC 639, (2013) 275 FLR 93, 2013 WL 2326878, NSWSC, (NO. 2010/245867) By Interlocutory Process dated 29 April 2013, the Plaintiffs, Ozem Kassem and Bruno Secatore as Liquidators of ACN 092 138 442 Pty Limited (in liq) ("Company") and the Company...	23 May 2013	Case	<div style="width: 75%; height: 10px; background-color: #ccc; position: relative;"> <div style="width: 75%; height: 100%; background-color: #008000;"></div> </div>	—

History tab

8. The **History tab** displays the direct history of the case and related references.

- a. are listed in the left column.
- b. Direct history is also displayed graphically in the right column.
 - Hide or show the graphical history by selecting **hide**.
 - Use the **–** and **+** icons to zoom in and out.

The screenshot displays the KeyCite interface for the case **Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3)**. The top navigation bar includes tabs for Document, Negative Treatment (6), **History (6)**, Citing References (122), and Table of Authorities. The History tab is active, showing a list of direct history cases on the left and a graphical flowchart on the right.

Direct History (6) List:

- 1. The Bell Group Ltd (in liq) and Others v Westpac Banking Corporation (No 9)** [2008] WASC 239, WASC, 28 Oct. 2008. Reversed in Part by.....
- 2. Westpac Banking Corporation v Bell Group Ltd (in liq) (No 3)** [2012] WASCA 157, WACA, 17 Aug. 2012. Special leave to appeal granted by.....
- 3. Westpac Banking Corporation v The Bell Group** [2013] HCATrans 49, HCA, 15 Mar. 2013.
- 4. Bell Group Ltd (in liq) v Westpac Banking Corporation (No 10)** [2009] WASC 107, WASC, 30 Apr. 2009. Reversed in Part by.....
- 5. Westpac Banking**

Graphical History:

The graphical history shows the progression of the case through different courts:

- High Court:** Case D: **Westpac Banking Corporation v The Bell Group** [2013] HCATrans 49, HCA, 15 Mar. 2013. Granting special leave to appeal (C).
- Appellate Court:** Case C: **Westpac Banking Corporation v Bell Group ...** [2012] WASCA 157, 17 Aug. 2012, WACA. Reversing in part (A), Reversing in part (B).
- Superior Court:** Case A: **The Bell Group Ltd (in liq) and Others v Westpac ...** [2008] WASC 239 | 28 Oct. 2008, WASC. Case B: **Bell Group Ltd (in liq) v Westpac Banking Corporation ...** [2009] WASC 107 | 30 Apr. 2009, WASC.

The graphical history is currently visible, as indicated by the 'Graphic: Hide' button being active. The 'Direct History (6)' list is also visible, with a 'Select All' option and a 'Graphic: Hide' button.

Citing References tab

9. The **Citing References tab** displays cases, secondary and other resources citing the case.

- a. Sort the display of options by depth of treatment.
- b. Filter by content, jurisdiction/court, date treatment or Digest topic.
- c. To view where the case is cited, change the Detail option to Most Detail.
- d. Click on the extract to go directly to the extract in the citing case.
- e. Depth of Treatment bars - indicate the extent to which a citing case, administrative decision, or brief discusses the cited case.

	Examined – the citing case contains an extended discussion of the cited case, usually more than a printed page in length.
	Discussed – the citing case contains a substantial discussion of the cited case, usually more than a paragraph but less than a printed page in length.
	Cited – the citing case contains some discussion of the cited case, up to a paragraph in length.
	Mentioned – the citing case contains a citation only to the cited case, usually in a string citation.

Table of Authorities tab

10. The **Table of Authorities** tab displays a list of cases determined as authoritative by the case.
- Sorting by depth of treatment (highest first), reorders cases with those citing the original case in most depth, at the top of the list.
 - The table displays the depth of treatment, whether the case has been quoted by the original case and the number of pages.
 - Click on the title to read view the case. Cases to be approached with caution can be evidenced by yellow or red flags.

Westpac Banking Corporation v The Bell Group Ltd (in liq) (No 3)
Western Australian Court of Appeal · 17 August 2012 · [2012] WASCA 157 · (2012) 44 WAR 1 · (2012) 270 FLR 10 · (2012) 89 ACSR 1 · 2012 WL 3553752 (Approx. 672 pages)

Document Negative Treatment (6) History (6) Citing References (122) **Table of Authorities** Powered by KeyCite

KeyCite Table of Authorities (483) 1-100 > Sort By: Depth: Highest First a No items selected

Table of Authorities is a listing of the cases relied upon as authority by the document you are viewing. You can use this list to quickly verify the validity of relied upon authority. Yellow or red KeyCite flags associated with a reference indicate that a cautionary approach to a point of law supported by that reference is advised.

Don't show this message again

Treatment	Referenced Title	Type	Depth	Quoted	Page Number
Considered	1. John Alexander's Clubs Pty Ltd v White City Tennis Club Ltd [2010] HCA 19, (2010) 241 CLR 1, (2010) 2 ASTLR 553, (2010) 84 ALJR 446, (2010) 4 BFRA 701, (2010) 266 ALR 462, 2010 WL 2053280, HCA, 2010, (NO. S308/2009, S309/2009)	Other	■■■■	”	1+
Applied	2. Kalls Enterprises Pty Ltd (in liq) v Baloglow [2007] NSWCA 191, (2007) 63 ACSR 557, (2007) 25 ACLC 1,094, 2007 WL 2288378, NSWCA, 2007, (NO. 40441/06)	Other	■■■■		1+
Considered	3. OzEcom Ltd (in liq) v Hudson Investment Group Ltd [2007] NSWSC 719, 2007 WL 2226035, NSWSC, 2007, (NO. 50080/05)	Other	■■■■		1+

Looking for more information?

To sign into Westlaw Australia Precision, visit <https://aulaw.thomsonreuters.com>

For assistance using Westlaw Precision Australia, call 1800 020 548

To request training, click <https://support.thomsonreuters.com.au/request-training>

For additional training materials, visit <https://support.thomsonreuters.com.au/product/new-westlaw-australia>