

SUPREME COURT OF QUEENSLAND

CITATION: *Logan Village Land Pty Ltd v Title Asset Management Pty Ltd* [2026] QSC 160

PARTIES: **LOGAN VILLAGE LAND PTY LTD**
(plaintiff)
v
TITLE ASSET MANAGEMENT PTY LTD
(defendant)

FILE NO: SC No 29 of 2026

DIVISION: Trial

PROCEEDING: Claim

ORIGINATING COURT: Supreme Court

DELIVERED ON: Ex tempore 13 May 2026

DELIVERED AT: Cairns

HEARING DATES: 13 May 2026

JUDGE: Henry J

ORDER:

1. The counter-claim contained with the defence of Title Asset Management Pty Ltd filed 13 April 2026 is declared to be of no effect (the filing fee not having been paid pursuant to *Uniform Civil Procedure Rules* r 968(5)).
2. The issue of costs incurred by Logan Village Land Pty Ltd in consequence of the inclusion of the ineffectual counter-claim in the defence is reserved.
3. The Registry will inform both parties of orders 1 and 2 and place a transcript of today's hearing on the court file as a file document.

CATCHWORDS: CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – PROCEDURAL REQUIREMENTS – PLEADINGS – COUNTER-CLAIM – NON-COMPLIANCE WITH RULES – Where the defendant filed a notice of intention to defend and pleadings – where the defendant's pleadings included a counter-claim for which the filing fee was not paid pursuant to r 968 *Uniform Civil Procedure Rules* and sch 1, *Uniform Civil Procedure (Fees) Regulation* 2019 – where the Registry notified the defendant the fee was to be paid within seven days, but it was not paid – where the matter was listed for directions with the plaintiff's appearance being excused – where the defendant did not appear at the listed

directions hearing – where the defendant did not comply with the Rules – whether the document filed by the defendant should be declared ineffectual

Uniform Civil Procedure (Fees) Regulation 2019 (Qld), sch 1
Uniform Civil Procedure Rules 1999 (Qld), r 371, r 968

COUNSEL: No appearance for the plaintiff
 No appearance for the defendant

SOLICITORS: No appearance for the plaintiff
 No appearance for the defendant

- [1] In the present matter, the defendant, Title Asset Management Pty Ltd, filed its notice of intention to defend and accompanying pleading on the 13th of April 2026. The accompanying pleading begins in the regular way as a defence of the defendant, however, it continues, later in the document, to also include a counter-claim. That appears to have escaped the notice of the Registry at the filing counter when the defence was filed, for it is undoubtedly the obligation of a counter-claimant to pay a filing fee when the document is filed – see r 968 *Uniform Civil Procedure Rules* and sch 1, *Uniform Civil Procedure (Fees) Regulation 2019*.
- [2] By email of 21 April 2026, the Registry notified Title Asset Management of the oversight and the requirement that the overdue fee be paid within seven days. It was not paid. On the 7th of May 2026, I, in chambers, ordered: (1) the matter be listed for directions at 9.15 am, 13 May 2026 with the appearance of Logan Village Land Pty Ltd being excused, for the purpose of addressing the failure of Title Asset Management Pty Ltd to pay its filing fee in respect of its counter-claim; (2) the listing in order 1 is cancelled in the event the aforementioned filing fee is paid by 4 pm, 11 May 2026 or the counter-claim is discontinued.
- [3] The fee has still not been paid. No appearance has been entered today by Title Asset Management Pty Ltd to explain its failure to comply with the Rules by forthwith paying the relevant filing fee when the oversight was discovered. Rule 371 empowers me, in circumstances where there has been a failure to comply with the Rules, to declare a document in the proceeding to be ineffectual. In the circumstances, I propose to declare that the counter-claim is ineffectual.
- [4] It may be that Logan Village Land Pty Ltd has been served with the defence and counter-claim and incurred cost in consequence of the inclusion of the ineffectual counter-claim, so my orders should reserve consideration of that cost issue should Logan Village Land wish to pursue it.
- [5] My orders are:
 - (1) The counter-claim contained with the defence of Title Asset Management Pty Ltd filed 13 April 2026 is declared to be of no effect (the filing fee not having been paid pursuant to *Uniform Civil Procedure Rules* r 968(5)).
 - (2) The issue of costs incurred by Logan Village Land Pty Ltd in consequence of the inclusion of the ineffectual counter-claim in the defence is reserved.

- (3) The Registry will inform both parties of orders 1 and 2 and place a transcript of today's hearing on the court file as a file document.