

SUPREME COURT OF QUEENSLAND

CITATION: *Choi v The Body Corporate of Macquarie Place* [2026]
QCA 139

PARTIES: **YUK SUM CHOI**
(applicant)
v
THE BODY CORPORATE OF MACQUARIE PLACE
CTS 10897
(respondent)

FILE NO/S: Appeal No 145 of 2026
QCATA No 161 of 2025

DIVISION: Court of Appeal

PROCEEDING: Application for Leave *Queensland Civil and Administrative Tribunal Act*

ORIGINATING COURT: Queensland Civil and Administrative Tribunal – [2025]
QCATA 128 (Member Roney KC)

DELIVERED ON: 24 July 2026

DELIVERED AT: Brisbane

HEARING DATE: 17 July 2026

JUDGES: Mullins P, Bradley JA, Doyle JA

ORDERS: **1. Leave to appeal granted.**
2. Appeal allowed on ground 3.
3. Decision of the appeal tribunal set aside, save for the decision to set aside the orders made by the adjudicator.
4. The respondent to pay the appellant’s costs of the proceeding in this Court.

CATCHWORDS: REAL PROPERTY – STRATA AND RELATED TITLES – MANAGEMENT AND CONTROL – BYLAWS – GENERALLY – where the applicant is the owner of a lot in a community title scheme managed by the respondent – where the respondent resolved to authorise the applicant to carry out works on her lot and an exclusive use area granted to her – where the applicant obtained a development permit and certificate of classification for the works – where the respondent contended before an adjudicator and then on appeal before QCAT that the works were not carried out in accordance with all laws and regulations as required by a by-law applying to the scheme – whether the appeal tribunal erred in failing to hold that the obtaining of a development permit

and certificate of classification constituted compliance with all laws and regulations relating to the works

Planning and Environment Court Act 2016 (Qld), s 7, s 11
Queensland Civil and Administrative Tribunal Act 2009 (Qld), s 150

COUNSEL: K W Wylie for the applicant
 M T de Waard for the respondent

SOLICITORS: S Day Lawyers for the applicant
 Material Law for the respondent

- [1] **MULLINS P:** I agree with Bradley JA.
- [2] **BRADLEY JA:** For many years, Mrs Choi has owned a lot in the Macquarie Place community title scheme. The scheme operates for a residential building completed around 1981. The respondent is the body corporate for the scheme. In 2017, the body corporate resolved to authorise Mrs Choi to carry out some works on her lot and an adjacent area of common property, for which the body corporate gave the owner of Mrs Choi's lot a right of exclusive use. In June 2018, Mrs Choi obtained a development permit for the works from a building certifier. She then carried out the works. In October 2018, the certifier, who was also a fire safety professional, issued a certificate of classification confirming that the works had been completed in accordance with the development approval he had given with the development permit.
- [3] In about 2023, Mrs Choi and the body corporate came to be in dispute about whether, in carrying out the works, Mrs Choi breached a body corporate by-law requiring compliance with the *Building Act 1975* (Qld), Queensland Development Code, and all other laws and regulations relating to the works. In 2024, the body corporate applied to have the dispute determined by an adjudicator, by means of an application for Mrs Choi to reinstate the lot and the common property as it was before the works, relinquish the right of exclusive use of the common property, pay for the reinstatement, and pay any fees for changes to the community management statement to remove the exclusive use area.¹

The appeal tribunal decision

- [4] On 19 December 2025, the Queensland Civil and Administrative Tribunal, constituted as the appeal tribunal, set aside orders made by an adjudicator in respect of the dispute and remitted the dispute to the adjudicator for further adjudication and consideration in relation to eight matters.² The learned member made three other directions, including one requiring Mrs Choi to provide the body corporate's representatives, agents, consultants and experts with access to the lot on reasonable notice.
- [5] Mrs Choi sought the Court's leave to appeal from the member's decision.³ Mrs Choi originally raised 26 grounds of appeal. At the hearing she pressed only four grounds: Ground 3, Ground 2, Ground 20, and Ground 22.

¹ Under the *Body Corporate and Community Management Act 1997* (Qld) (**BCCM Act**), Chapter 6, Part 4.

² See *Choi v The Body Corporate of Macquarie Place CTS 10897* [2025] QCATA 128.

³ Under the *Queensland Civil and Administrative Tribunal Act 2009* (Qld), s 150(2)(b).

Ground 3

- [6] The first pressed ground was that the member's decision was in error because all that Mrs Choi was required to do to comply with all laws and regulations relating to the works was to obtain a development permit and the certificate of classification, which she had done.
- [7] By written submissions filed in advance of the hearing in this Court, Mrs Choi's counsel set out her case on this ground. Counsel for the body corporate was unable to identify any error in her case. It was common ground that Mrs Choi had obtained the permit and the certificate. The body corporate was unable to identify any law or regulation with which Mrs Choi had not complied in carrying out the works.
- [8] This ground of appeal raises a question of law. The facts on which it depends are not in issue. The argument in its favour is unanswered. It is plainly correct. Determination of this ground would resolve the whole of the proceeding before the adjudicator and the appeal tribunal.
- [9] The body corporate objected to Mrs Choi raising this ground because it had not been raised before the adjudicator or the member. Neither party was legally represented before the adjudicator or the appeal tribunal. In contrast, both parties were represented in this Court. Remitting the dispute to the adjudicator would serve no purpose. The body corporate's application to the adjudicator cannot succeed. In the circumstances, the Court should give Mrs Choi leave to appeal on this ground and allow the appeal.

Ground 2

- [10] By the second ground, Mrs Choi would contend that only the Planning and Environment Court (P&E Court) has jurisdiction to determine whether the development permit for the works was "correct".
- [11] This ground depended on an interpretation of s 7 of the *Planning and Environment Court Act 2016* (Qld) which should be rejected. It is possible that part (perhaps all) of the dispute between the body corporate and Mrs Choi could have been the subject of a declaratory proceeding in the P&E Court.⁴ No part of the dispute was. The P&E Court has made no decision on the dispute. So, there is no matter or decision of that Court on the dispute that could be "final and conclusive" or could "not be challenged, appealed against, reviewed, quashed, set aside or called into question in any way" before the adjudicator or in the tribunal.

Ground 20

- [12] By the third ground, Mrs Choi would contend that the body corporate's referral of the dispute to the adjudicator was made "too late" because "in effect" it was an application for an order declaring "void" the body corporate's 2017 decision to authorise the works.⁵ That was not the form or the nature of the body corporate's application. This proposed ground has no merit.

Ground 22

- [13] By the last ground, Mrs Choi would contend that the member failed to give Mrs Choi procedural fairness in deciding to direct her to provide access to her lot, because she

⁴ *Planning and Environment Court Act 2016* (Qld), s 11(1).

⁵ Under the *BCCM Act*, s 242.

had no notice that the direction might be made. The direction had not been sought by the body corporate in the tribunal. It seems to have been made to facilitate the remitted adjudication before the adjudicator.

- [14] Whatever the merit of this fourth ground, it has in common with the second and third grounds that it could not change the outcome that follows from allowing the appeal on the first ground. There is no utility in allowing leave and deciding the other grounds.

Final disposition

- [15] The Court should order:
1. Leave to appeal granted.
 2. Appeal allowed on ground 3.
 3. Decision of the appeal tribunal set aside, save for the decision to set aside the orders made by the adjudicator.
 4. The respondent to pay the appellant's costs of the proceeding in this Court.
- [16] **DOYLE JA:** I have read and agree with the reasons for judgment of Bradley JA and with the orders proposed by his Honour.