

SUPREME COURT OF QUEENSLAND

CITATION: *Antai Solar Australia Pty Ltd v Towers [No 2]* [2026]
QCA 188

PARTIES: **ANTAI SOLAR AUSTRALIA PTY LTD**
ACN 646 440 173
(appellant)
v
JAMIE STUART TOWERS
ANTHONY ROGER HUNT
MATTHEW JAMES GREEN
MICHAEL ANGELO GEORGHIOU
MATTHEW PAUL BEASLEY
CLIVE MALCOLM TODD
JOHN MARK KOTZUR
TIMOTHY DAVID TAYLOR
CHERYL ANN LAIRD
SIN JUNG KWON
NATHANAEL MICHAEL LEE
DONAVIN VAN ROOYEN
(first respondents)
DA WEN
(aka Michael Wen)
(second respondent/not a party to the appeal)
HANRICK CURRAN INVESTMENTS PTY LTD
ACN 629 899 734
HANRICK CURRAN HOLDINGS PTY LTD
ACN 138 962 615
FORVIS MAZARS (QLD AND NT) PTY LTD
ACN 102 716 101
FORVIS MAZARS ADMINISTRATION (QLD & NT)
PTY LTD
ACN 141952 972
FORVIS MAZARS EMPLOYMENT (QLD & NT) PTY
LTD
ACN 158 971 012
FORVIS MAZARS CORPORATE FINANCE PTY LTD
ACN 165 488 620
FORVIS MAZARS FINANCIAL ADVISORY (QLD &
NT) PTY LTD
ACN 652 563 016
FORVIS MAZARS SP (QLD & NT)
ACN 631 498 578
FORVIS MAZARS HR (QLD & NT) PTY LTD
ACN 625 954 289
FORVIS MAZARS SUPERANNUATION (QLD & NT)
PTY LTD
ACN 010 749 550

FORVIS MAZARS WEALTH STRATEGISTS (QLD & NT) PTY LTD

ACN 121 011 363

FORVIS MAZARS ASSURANCE PTY LTD

ACN 132 902 188

(third respondents)

HOWARD YIN

(fourth respondent)

FILE NO/S: Appeal No 847 of 2026
SC No 1522 of 2025

DIVISION: Court of Appeal

PROCEEDING: Further Orders – Costs

ORIGINATING COURT: Supreme Court at Brisbane – [2026] QSC 10 (Freeburn J)

DELIVERED ON: 25 September 2026

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGES: Brown JA, Bradley JA, Doyle JA

ORDER: **The respondents pay 50 per cent of the appellant’s costs of and incidental to the appeal including of the notice of contention.**

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – COSTS – where the appellant was successful in substantial part on appeal – where costs order below was made by consent after judgment was given below – where no separate appeal from costs order – whether costs order below should be disturbed
Uniform Civil Procedure Rules 1999 (Qld), r 766

COUNSEL: R A Perry KC for the appellant
B D O’Donnell KC, with B W Wacker, for the first, third and fourth respondents

SOLICITORS: Hawthorn Cuppidge & Badgery for the appellant
Wotton Kearney for the first, third and fourth respondents

- [1] **THE COURT:** On 4 September 2026 this Court made orders allowing the appeal and inviting the parties to make submissions as to costs both of the proceedings at first instance and the appeal.
- [2] The circumstances giving rise to the appeal and the reasons for its disposition are set out in the reasons of this Court at [2026] QCA 166.
- [3] Both parties have now provided written submissions. The primary judge made orders on the application in favour of the respondents (on their application to his Honour) on 4 February 2026.

- [4] Subsequently, after hearing the parties at to costs, his Honour made orders as to costs of the application on 22 June 2026. The Order as to costs does not yet seem to have been taken out though from the submissions it appears that orders were made for the costs of the defendants (other than the second and fourth defendants and Forvis Mazars (Qld and NT) Pty Ltd) of the application to be paid by the appellant on an indemnity basis, and that the costs of the fourth defendants and Forvis Mazars (Qld and NT) Pty Ltd of the application be paid by the appellant on a standard basis. The court file records that the Order was made by consent.
- [5] The Notice of Appeal in terms appealed from orders 2, 3 and 4 made on 4 February 2026. No separate Notice of Appeal was filed in relation to the subsequent costs order. Notwithstanding this, the Notice of Appeal filed sought an order, inter alia, that the respondents' application below be dismissed and that the respondents pay the appellant's costs of the appeal and the costs below. The only bases for the variation sought of the costs orders were the merits of the appeal, as distinct from some claimed error in respect of the costs order itself.
- [6] This Court, on appeal, has all the powers and duties of the court that made the decision appealed from: r 766(1)(a) of the UCPR. In those circumstances, we would not accept the submission made by the respondents that this Court has no jurisdiction to vary the order for costs made by the primary judge. However, some particular reason needs to be shown for disturbing a consent order.
- [7] None has been shown. Moreover, given that though it has now been determined that the respondents should have been only partially successful on their application, it is evident from the reasons of this Court that the pleading falls short of an appropriate one. This Court's decision to overturn the order made setting aside parts of the Claim proceeds on the basis that it was not clear the defects in the pleading of the asserted case could not be overcome by amendment. Amendment, however, is necessary. There is therefore no need to disturb the separate costs order which was made.
- [8] On the other hand, the appellant has enjoyed substantial success on the appeal in that it has succeeded in having substantial parts of its Claim reinstated against significant respondents. As just mentioned, this Court's determination about the Claim is not to be understood as endorsement of the present form of the pleading made in support of the claim. Rather it reflects the view of the Court that the primary judge acted to set aside those aspects of the claim in circumstances where there was not a plain and clear case for doing so.

Conclusion

- [9] In those circumstances, in our view the appropriate order is that the respondents pay 50 per cent of the appellant's costs of and incidental to the appeal including of the notice of contention.