“Holding” Deed of Company Arrangement found to be valid by High Court

Date : July 5, 2018

The High Court has dismissed an attempt to invalidate a Deed of Company Arrangement (DoCA) on the grounds that it failed to specify the property which comprised the Deed fund, and was otherwise contrary to the purposes of Part 5.3 of the Corporations Act.

The legal representatives of Mighty River International Limited asserted that the DoCA relating to Mesa Minerals Limited (Subject to Deed of Company Arrangement) was in fact not really a DoCA at all. It’s stated purpose was to allow time for the Administrators to further investigate the property and affairs of the company, with a view to considering whether a restructure was possible. This was said to run contrary to the express purposes the DoCA scheme, and was instead an attempt by the Administrators to buy more time to conduct investigations that normally take place during the convening period.

Without publishing their reasons the High Court indicated that at least a majority of them agreed that the application should be dismissed. We expect the High Court will publish it’s reasons soon.

A copy of the transcript of the hearing can be found here:
http://www.austlii.edu.au/au/other/HCATrans/2018/120.html