



Importance of Lease Agreements

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Foote v Acceler8 Technologies Pty Ltd

Supreme Court of New South Wales

A new tenant, Foote, entered into a new lease agreement with the owner to open a pharmaceutical store.

The agreement included a special condition stating that the necessary approvals must be obtained by a certain date. A separate special condition allowed Foote to terminate the agreement in the event that the approvals were not granted.

The necessary approvals were not granted by the specified date and the owner and an existing tenant argued that there was therefore no enforceable contract.

The court was unable to accept this. The Court held that when looking at the special conditions of a lease contract, one must consider the overall scheme of the special conditions. The Court found that the purpose of the special condition was to provide the opportunity for the new tenant to withdraw from their contractual arrangement if they did not receive the approvals or recommendations.

The Court held that the agreement was valid and enforceable.

In the above case, the owner was vulnerable. Where an agreement to lease is conditional upon certain events, owners should ensure that their interests are also protected. To protect the interest of the owner, the special condition could have been drafted to allow **either** party to terminate in the event that the necessary approvals or recommendations were not obtained by the specified date.

If you would like to discuss this topic further, you should contact our commercial team at Matthews Folbigg on 9635 7966.

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