

CITATION: *The Proprietors of Unit Plan 97/023 v Anthony Buckland* [2026] NTLC 3

PARTIES: *The Proprietors of Unit Plan 97/023*
v
Anthony Dean Buckland

TITLE OF COURT: LOCAL COURT

JURISDICTION: CIVIL

FILE NO(s): 2024-02453-LC

DELIVERED ON: 16 March 2026

DELIVERED AT: Darwin

HEARING DATE(s): December 2025

DECISION OF: Judge Greg Macdonald

CATCHWORDS:

PRACTICE AND PROCEDURE – Local Court – Application to set aside.

Application for a stay of execution and an order setting aside a default judgment filed – Where neither party attended the directions hearing and the Application was dismissed – Second Application filed seeking to set aside the dismissal of the First Application and to have the matter reheard – Where a temporary stay of execution was granted, and self-executing ('guillotine') orders were made – Applicant failed to comply with those orders within the prescribed period – Application dismissed.

Local Court Act 2015 (NT) s 29(1)(a)

Local Court (Civil Jurisdiction) Rules 1998 (NT) rr 6.02, 22.01,

Northern Territory Local Court, General Practice Direction No 2.12: Practice Direction 1B Access to Case Files and Exhibits (8 January 2026)

Oaths, Affidavits and Declarations Act 2010 s 14

Allesch v Mauz [2000] HCA 40

State Rail Authority of NSW v Codelfa Construction Pty Ltd (1982) 150 CLR 28 at [684]

Wentworth v Woollahra Municipal Council [1982] HCA 41 at [3]

REPRESENTATION:

Counsel:

Plaintiff: Ms A Howland

Defendant: Mr J Thompson

Solicitors:

Plaintiff: Ward Keller

Defendant: Thompson and Associates

Decision category classification: B
Decision ID number: [2026] NTLC 3
Number of paragraphs: 17

IN THE LOCAL COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 2024-02453-LC

BETWEEN:

The Proprietors of Unit Plan 97/023

Plaintiff

AND:

Anthony Dean Buckland

Defendant

REASONS FOR DECISION

(Delivered 16 March 2026)

JUDGE MACDONALD

1. On 13 March 2026 the court made orders in relation to interlocutory applications in this proceeding with reasons to be published. These are those reasons.

Background

2. On 23 July 2024 the Plaintiff (Respondent) commenced proceedings against the Defendant (Applicant) by Form 7A Statement of Claim (Proceeding). The Proceeding was in respect of contributions, fees, and expenditures incurred by it in the performance of its functions in relation to the common property for which it is responsible. Those monies were alleged to have been sought by levy notices and statements issued by the Respondent over 1 May 2019 to 1 May 2024.
3. The Proceeding was the subject of a default judgement on 20 May 2025, followed by the issue of a Warrant of Seizure and Sale. However, an *ex parte* application (First Application) was then filed in the Proceeding by the Applicant on 11 August 2025, for a stay of execution and orders setting aside the judgment entered.
4. On 18 August 2025 legal practitioner Mr Jeff Thompson of Thompson and Associates filed a notice of acting in accordance with the *Local Court (Civil Jurisdiction) Rules 1998* and Practice Direction. On 26 August 2025, Mr Thompson appeared on behalf of the Applicant, with the First Application then being subject to procedural directions made by the court and fixed for hearing on 23 September 2025.
5. On 23 September 2025, neither Mr Thompson nor the Applicant appeared, with the consequence of the First Application being dismissed.

6. On 24 September 2025 Mr Thompson filed a further application (Second Application) seeking that the orders made 23 September 2025 be set aside, and that the First Application be re- heard. The Second Application was listed for hearing on 7 October 2025. The Affidavit in support of that Application deposed to a diarising error as the reason for non-appearance of the Applicant on 23 September 2025.

The Applications and decision

7. On 7 October 2025 Mr Thompson appeared on the First and Second Application, accompanied at court by the Applicant. On that date, Woodcock LCJ granted relief to the Applicant. That was in the form of a temporary stay of execution on the judgment entered 20 May 2025, together with associated orders. Namely, that the Applicant file and serve both a Defence and Counterclaim within 14 days and, secondly, Affidavit evidence in support of his asserted Counterclaim within 28 days. Each of those orders were then followed by an order that “*In default the temporary stay ... is revoked.*” That is, the orders of relief were also subject to self-executing or guillotine orders in the event of non-compliance. Consequently, the order to file pleadings and the order to file evidence had to be complied with by 21 October and 4 November 2025 respectively. Those orders were read onto the record in the presence of Mr Thompson and the Applicant on 7 October 2025 and provided electronically to Mr Thompson on 16 October 2025.
8. However, the first order was not complied with in any manner, shape, or form. On a liberal or generous reading, it might be concluded that the Applicant at least sought to comply with the second order, by the filing and service of an Affidavit sworn 25 October 2025. That Affidavit is apparently witnessed by the Applicant’s legal representative, Mr Thompson.¹ Nonetheless, as the first order was not complied with by 21 October 2025, the self-executing order attaching to it therefore took effect.²
9. The Applicant’s Affidavit of 25 October 2025 refers to the Proceeding of 23 July 2024 being “*not properly served*”, with him having been out of the jurisdiction at some relevant time. It also refers to medical incapacity which “*prevented me from complying with the Local Court Rules (NT) Rule 6.02 concerning the filing of a defence*”.³ The Affidavit also refers back to earlier affidavit evidence filed in support of the Application heard on 23 September and 7 October 2025, and annexes various further communications over 2024 and 2025 with strata title managers for the relevant premises. In the circumstances of the procedural steps which proceeded it, the content of the Affidavit is muddled and chaotic.

¹ Although the form of that Affidavit does not fully comply with rule 22.01 of the *Local Court (Civil Procedure) Rules 1998* or s14 of the *Oaths, Affidavits and Declarations Act 2010* (or include a jurat as to truth), and its content falls short of what may minimally be necessary in order to meet any evidentiary threshold in respect of the asserted arguable counter-claim, substantial compliance with the second order might possibly be concluded.

² It should be noted that the second order on 7 October 2025 is parasitic on the first order, so cannot be properly or effectively complied with without the first order having been satisfied.

³ Although nothing which might be considered medical evidence is annexed.

10. That Affidavit, whether studiously or otherwise, provided no evidence concerning the Applicant's failure to file and serve the Notice of Defence and Counterclaim ordered on 7 October 2025, and due by 21 October 2025. This is despite the fact that the Applicant was present in court on the day the orders were made, and that he was clearly in communication with Mr Thompson during the period intervening between 7 and 25 October 2025, including to arrange to attend upon him in order to have the Affidavit of 25 October 2025 witnessed on oath.
11. Most relevantly, no further application was made to the court between 7 October 2025 and the deadline of 21 October 2025, seeking that the self-executing orders be expanded, enlarged or extended.
12. The next development was on 30 October 2025, on which date the Applicant's legal representative, Mr Thompson, emailed the Local Court Registry and the Respondent's lawyers. The email referred to the "Orders of 7 and 16 October 2025" and then advised (amongst other things); "*It appears we do not have a copy of the Statement of Claim to which the orders relate. We have not been able to formulate a statement of defence or a defence in the absence of the statement of claim. I further enquire as to the status of the application to set aside which is currently on file. That application has to be dealt with first and in effect is a defence and has already been filed.*" The content of that email is nonsensical and illogical. As the legal practitioner on the record, Mr Thompson (and the Applicant) knew full well that he was legally entitled to search the Local Court's record and obtain copies of any pleading or affidavit comprising the file.⁴
13. The next step taken by the Applicant was the filing on 23 December 2025 of a further application (Third Application) to set aside the orders made 7 October 2025, and that the First Application be re-heard. The Affidavit in support referred to an application to "*reinstate my counterclaim*"⁵, and set out a large amount of historical evidence or information concerning asserted defects in substituted service of the Proceeding⁶, and as to failures and incapacity of the Applicant's lawyer both during the crucial period of 7 October to 21 October 2025, and following.⁷ No medical evidence nor any written communication between the Applicant and his lawyer was annexed to that Affidavit.
14. The Affidavit also deposed to the Applicant having settled or met the judgment the subject of the Respondent Plaintiff's claim, such that the substantive or primary cause of action which led to entry of the judgment on 20 May 2025 had been resolved. Although the Affidavit did not annex any evidence of the terms of settlement or basis on which resolution was agreed, the

⁴ Generally, as of right, by request made under s29(1)(a) of the *Local Court Act 2015* and Practice Direction 1B.

⁵ Noting that neither any Defence nor Counterclaim had been filed in the Proceeding at that time.

⁶ Noting that from 18 August 2025 the Applicant was represented by a legal practitioner and had appeared on 7 October 2025 so had generally submitted to the jurisdiction of the court in the Proceeding, and that both the Applicant and his lawyer had access to the court record.

⁷ Noting that the Applicant was present at the hearing of 7 October 2025, including for the reading of the court's Orders onto the record, and that the engrossed and sealed Orders were also provided to the Applicant's lawyer electronically on 16 October 2025.

situation as at 23 December 2025 provokes a query concerning the extent to which the asserted counterclaim could be parasitic on the Proceeding.⁸

15. The Applications and dispute were listed before me on 27 January 2026, at which time the court had the benefit of written submissions from the Respondent but not from the Applicant. The Applicant was granted leave to file and served any written submissions and any further Affidavit evidence, within 7 days. A range of written submissions from the parties, together with a further two Affidavits by the Applicant dated 3 and 24 February 2026, were then filed and served. The evidence and submissions provided to the court from 27 January 2026 onwards has also been considered in determining the Applications.
16. In my view the authorities relied on by the Applicant do not apply to the issues to be determined here.⁹ The Applicant appeared and was heard on both 26 August and 7 October 2026, on the second occasion with the benefit of legal representation. I consider that the self-executing orders of 7 October 2026 were validly made and that the Applicant had adequate opportunity to be heard, including the opportunity to file and serve a Notice of Defence and Counterclaim, then evidence in support, including to set aside the judgment entered 20 May 2025. *Wentworth v Woollahra Municipal Council*¹⁰ is strong authority for the extent of the public interest in maintaining the finality of outcomes in litigation.
17. The temporary stay has expired. Although there is also public interest against litigation, the Applicant may have other courses available.

Orders

- i. The Defendant's Applications are dismissed.
 - ii. The Defendant Applicant is to pay the Plaintiff Respondent's costs of and incidental to the Applications on a standard basis, to be agreed or taxed.
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⁸ Noting that no Counterclaim had in fact been filed.

⁹ *Allesch v Maunz* [2000] HCA 40 concerned the situation of a party who had not appeared at hearing (or been heard), with good excuse. *Wentworth v Woollahra Municipal Council* [1982] HCA 41 applied *State Rail Authority of NSW v Codelfa Constructions Pty Ltd* (1982) 150 CLR 28 at [684], for the proposition that reopening of proceedings for the purpose of rehearing should not occur unless an "applicant can show that by accident without fault on his part he has not been heard."

¹⁰ [1982] HCA 41 at [3]