

Australia and New Zealand Banking
Group Limited

Appellant

v.

Compafina Bank

Respondent

(and cross-appeal)

FROM

THE SUPREME COURT OF NEW SOUTH WALES
COMMON LAW DIVISION COMMERCIAL LIST

NOTE OF PROCEEDINGS ON MONDAY, 22ND JULY 1985

Present at the Hearing:

LORD KEITH OF KINKEL
LORD ROSKILL
LORD BRANDON OF OAKBROOK
LORD GRIFFITHS
SIR OWEN WOODHOUSE

Mr. K.R. Handley, for the appellant, laid before their Lordships for their approval draft terms of an agreed order signed by Counsel, a copy of which would be lodged in the Registry, for disposing of the appeal without further argument.

Their Lordships deliberated briefly without retiring and Lord Keith of Kinkel said that they would humbly advise Her Majesty accordingly.

No judgment was delivered.

The full terms of the order are as follows:-

"By Consent and without admissions.

1. The Appeal ought to be allowed to the extent hereinafter stated and the Cross-appeal dismissed in either case on the terms signed by Counsel for the parties and lodged in the Registry.
2. The Judgment for Compafina Bank entered in the Supreme Court ought to be varied by substituting for that Judgment, Judgment for

US\$7,500,000, such Judgment to take effect from 22 July 1985.

3. The order for costs made in the Supreme Court in favour of Compafina ought to be set aside; each party to bear its own costs in the Supreme Court and in the Privy Council.
4. An order should be made that the security lodged in the Supreme Court by the Appellant and the Cross-appellant be paid out to the party lodging the same or to its solicitors.
5. Compafina and Australia and New Zealand Banking Group (ANZ) agree as follows:
 - (a) Compafina shall within 10 days discontinue all other pending actions against ANZ, with each party to bear its own costs thereof.
 - (b) ANZ shall pay the Judgment sum within 7 days to Messrs. Sly and Russell, or to such other person as they may direct by written notice to Messrs. Norton Smith & Co.
 - (c) Compafina shall not proceed to Judgment in the Supreme Court against F.T.A. Bennett.
 - (d) Save as may be necessary to give effect to these terms Compafina hereby releases ANZ from all claims and demands whatsoever and howsoever arising out of any acts or omissions of ANZ and/or F.T.A. Bennett, including the receipt of monies, which relate in any way to Alexander Jamieson, or any companies controlled or managed by him, or which relate to monies lent by Compafina to, or expenses incurred by it in respect of Alexander Jamieson or any companies controlled or managed by him.
 - (e) Neither ANZ nor Compafina nor any person authorised by them shall voluntarily disclose these terms of settlement to any person not in its employ except privately to shareholders, others with a financial interest in these proceedings, or witnesses in the proceedings who were formerly in the employ of either party, and such other persons as may be required by law.

DATED 22ND DAY OF JULY, 1985

(signed) K.R. Handley

(signed) R.V. Gyles

Counsel for Australia and New Zealand Banking Group Limited

Counsel for Compafina Bank"