

THE NATURE AND CONTENT OF NATIVE TITLE: THE *MIRIUWUNG-GAJERRONG* CASE

Overview

On 8 August 2002, the High Court handed down its decision on *Western Australia v Ward & Ors*, relating to the native title claim by the Miriung-Gajerrong peoples. The decision has been anticipated as one which will answer critical questions about the nature and content of native title.

Cases

Western Australia v Ward & Ors - High Court decision (8 August 2002)

State of Western Australia v Ward [2000] FCA 191 (3 March 2000) - Full Federal Court decision

Ben Ward & Ors v State of Western Australia & Ors [1998] 1478 FCA (24 November 1998 - Federal Court decision

Legislation

Native Title Act 1993 (Cth)

Media Releases

Media Background from Kimberley Land Council

Media Release from Kimberley Land Council

Media Release from ATSIC

Media Release from Attorney-General's Department

Media Release from ANTaR

Media Release from Carmen Lawrence

Media Release from Senator Aden Ridgeway

Media Release from WA Premier, the Hon. Geoff Gallop

Comments

Initial statement by the High Court, 8 August 2002

Lisa Strelein, Manager, NTRU, [Initial comment](#) on the High Court decision.

Paul Kennard, [Faira Land Rights Newspaper](#) - abridged version of a summary of the Full Federal Court decision by Paul Kennard, in-house counsel for the Land and Heritage Unit at the Aboriginal Legal Service of Western Australia (Inc).

Bibliography

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Bartlett, Richard 2002. 'General principles of extinguishment after Ward', *Australian Mining and Petroleum Law Journal*, Vol. 21, No. 3, December, pp 255-267.

Basten, John 2002. 'The content of native title', *Australian Mining and Petroleum Law Journal*, Vol. 21, No 3, December, pp 225-235.

Brennan, Sean 2003. 'Native title in the High Court of Australia a decade after Mabo', *Public Law Review*, Vol. 14, pp. 209-218.

French, Robert 2002. *Western Australia v Ward: Devils and Angels in the Detail*. Paper presented to the Native Title Conference 2002 *Outcomes and Possibilities*, Geraldton, Western Australia 3-5 Sept 2002.

Horrigan, Bryan and Simon Young 2000. '*Western Australia v Ward: Rolling back native title in the Kimberley*', *Online Opinion*, 4 March.

Howie, Ross 2001. 'Where are we at with native title following the appeals in Croker Island, Miriuwung Gajerrong and Yorta Yorta', in B. Keon-Cohen (ed), *Native Title in the New Millennium*, Aboriginal Studies Press, Canberra.

Hunt, Michael 2002. 'Native title and the mining industry after Ward, including recommendations for participants', *Australian Mining and Petroleum Law Journal*, Vol. 21, No. 3, December, pp 294-301.

Jonas, William 2003. *Native Title Report 2002. Chapter 4: Implications of Miriuwung-Gajerrong and Wilson v Anderson*, Human Rights and Equal Opportunity Commission, Sydney.

Meyers, Gary D., 2000. 'The content of native title: Questions for the Miriuwung Gajerrong Appeal', *Land Rights Laws – Issues of Native Title*, Vol. 2, No. 7, November.

Reilly, Alex 2002. 'From a jurisprudence of regret to a regrettable jurisprudence: Shaping native title from Mabo to Ward', *Murdoch University Electronic Journal of Law (E-Law)*, Vol. 9, No. 4, December, pp 1-32.

Ritter, David 2002. 'So, what's new? Native Title Representative Bodies and Prescribed Bodies Corporate after Ward', *Australia Mining and Petroleum Law Journal*, Vol. 21, No. 3, December, pp 302-310.

Stoeckel, Kate 2003. 'Western Australia v Ward and Ors', *Sydney Law Review*, Vol. 25, No. 2, June, pp 255-272.

Strelein, Lisa 2002. 'Western Australia v Ward on behalf of the Miriuwung Gajerrong, High Court of Australia, 8 August 2002: Summary judgment', *Land, Rights, Laws: Issues of Native Title*, Vol. 2, No. 17, August.

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Wright, Lisa 2003. 'Part 1 of an analysis of the Ward decision: Western Australia v Ward', *Indigenous Law Bulletin*, Vol. 5, No. 22, January-February.

Wright, Lisa 2003. 'Part 2 of an analysis of the Ward decision: Western Australia v Ward', *Indigenous Law Bulletin*, Vol. 5, No. 26, July-August, p 18-23.

Useful Websites

The Miriuwung and Gajerrong Families Heritage and Land Council