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A BRIEF UPDATE Series

BUILT ON RELATIONSHIPS. DRIVEN BY RESULTS.

A quick note to let you know that I've recently changed firms and have joined Bartier Perry as a Partner in its Commercial Disputes team.

Thank you for being part of my distribution list and for engaging with and sharing some of the content that I've been putting out. I'm looking forward to continuing to stay in touch and share topical legal updates with you through my Brief Updates, which will continue to share information in legal issues while keeping the content clear and concise. I hope these updates will remain useful.

In my first Brief Update from Bartier Perry, I discuss a recent interest decision of the Supreme Court of New South Wales that involved a party being bound to a forged document.

When Is a Forged Document Still Binding?

Most people would assume that if their signature was forged on a legal document, they would not be bound by it.

But what if they authorised someone else to act on their behalf? What if they continued with the transaction after learning about it? And what if another party had already relied on the document?

These were some of the questions considered by the NSW Supreme Court in *Khan v DP Bonds Pty Ltd* [2026] NSWSC 942.

The Property Purchase

The case arose out of a property purchase involving two brothers. To secure the property, a deposit bond was obtained through their finance broker. Later, the brothers alleged that the broker had forged their signatures on the deposit bond application and related indemnity documents. Expert evidence supported their position, and the Court accepted that they had likely not personally signed the documents.

At first glance, that might seem like the end of the matter. If the signatures were forged, surely the documents could not be enforced.

However, the Court looked beyond the signatures and examined what had happened before and after the documents were signed.

Looking at the Bigger Picture

The evidence showed that the brothers had authorised the broker to do what was necessary to help secure the property and arrange finance. The broker obtained the deposit bond as part of that process. The brothers also continued to pursue finance and progress the transaction. Importantly, once they became aware of the deposit bond and the alleged forgery, they did not promptly raise the issue with the bond issuer before the bond was called upon.

In those circumstances, the Court held that the brothers remained liable despite the forged signatures. The issuer had relied upon the documents and the brothers' conduct was consistent with the transaction proceeding.

Why Does This Matter?

The decision is a reminder that disputes are not always determined solely by whether a signature is genuine.

Courts may also consider whether a person:

- authorised someone else to act on their behalf;
- continued to act as though the transaction was valid;
- accepted the benefits of the transaction; or
- allowed another party to rely on the arrangement without raising concerns.

The key takeaway from *Khan* is that a forged signature is not always the end of the story. Where a person has authorised a course of conduct or subsequently acted in a way that supports a transaction, it may be difficult to later avoid liability by pointing to the forgery alone. Courts will often look at the broader factual context, not just the document itself.

Please feel free to reach out by phone or email if you have any questions on this update or any other legal issue.

Kind regards

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