Published on *The National Law Review* https://www.natlawreview.com

# Pre-Judgment Freeze of Assets in Australia Upheld

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A Singapore entity who had entered into a joint venture with an Indonesian entity brought suit in Singapore. The Indonesian entity owned shares in an Australian company. The Singapore entity made an ex parte application to the Supreme Court of Western Australia ("Supreme Court") to freeze the shareholding interests. The court granted the application, but the Court of Appeal dismissed the freezing order. The High Court reversed.

The High Court affirmed that the Supreme Court had broad inherent jurisdiction to administer law and make orders. The High Court found that the Foreign Judgments Act vests superior courts with federal jurisdiction that covers the totality of issues that might arise from the making of an application to enforce a foreign judgment under the Act, including freezing orders. In considering freezing orders , the Supreme Court's criteria is:

- The applicant has a good arguable case on an accrued/prospective cause of action that is capable of being heard in a court outside Australia;
- There is sufficient prospect that the foreign court will enter judgment in favor of the applicant;
- There is sufficient prospect that the judgment will be registered in or enforced by the Supreme Court; and
- The Supreme Court is satisfied that there is a danger the prospective judgment will be wholly or partly unsatisfied because assets may be removed from Australia, disposed or diminished in value.

Thus, Australia follows other common law jurisdictions protecting creditors from the dissipation of assets to pay their claims through the use of pre-judgment freezing orders.



National Law Review, Volumess V, Number 350

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