

1 requirements remained identical to that described in a
2 submission and set out in Paragraph 8 above.

3 HIS HONOUR: Yes.

4 MR GARDE: So that was the position as pleaded following the
5 application now in November 1980. Then, Your Honour,
6 when - if we jump over the pleading of the deed of
7 absolute assignment and come to Paragraph 15, in
8 Paragraph 31A we now have, by April 1984, a company,
9 Woodleigh Heights Resort Developments Pty Ltd were
10 developing a time share resort on cluster Subdivision
11 1134, it had purchased must of the land, entered into
12 contracts of sale to purchase all of the land that had
13 defaulted upon those contracts, and then there's this
14 discussion about Woodleigh Heights Resort Development
15 would prevent the plaintiffs' land or the land from
16 having access to - - -

17 HIS HONOUR: I'm sorry, where we have jumped to?

18 MR GARDE: Sorry, I'm now at 31B, Your Honour, 31B on p.15.

19 HIS HONOUR: Yes.

20 MR GARDE: I left out all the stuff relating to the deed of
21 assignment, Your Honour.

22 HIS HONOUR: Yes.

23 MR GARDE: So in 31B, Woodleigh Heights Resort Development
24 advised the plaintiffs that if the plaintiffs attempted
25 to rescind the contracts and sell to anyone other than
26 Woodleigh Heights Resort Development, then it would
27 prevent the plaintiffs land, which - or the land from
28 having access to water, and thereby render the land
29 worthless, and Your Honour will have noted from the book
30 of pleadings that back on 23 October 1980, this is p.C11,
31 Mr Thompson, Mr and Mrs Thompson, but with the signature

1 of Mr Thompson, wrote to the secretary of the shire of
2 Kyneton, and said, "Dear sir, please find enclosed bank
3 guarantee for subdivision of KR and another initial
4 Buchanan at Tylden Road, Kyneton, this subdivision is now
5 a joint venture between ourselves and Buchanan, and
6 Mr Ken Buchanan is still managing the subdivision for the
7 partnership", but what subsequently happened was that
8 there was a dispute that broke out between the Buchanans
9 and the Thompsons as we apprehend the position with the
10 consequent result that the development company that was
11 controlled by the Buchanans denied any access to the
12 water which that company had procured through the supply
13 agreement to the Thompsons, so the consequence of that
14 was that although, as Your Honour has had discussed
15 earlier, an agreement was made on the first day of
16 January 1982 between the Water Works Trust and Woodleigh
17 Heights Resort Development for the supply of water
18 suitable for domestic purposes by the Water Works Trust,
19 which was the first supply of that water to this land,
20 that supply agreement was made with the development
21 company, and it was as a consequence up to the
22 development company as to whether or not other lot owners
23 gained access to the water that that company was now
24 receiving from the Water Works Trust.

25 HIS HONOUR: Yes.

26 MR GARDE: And Your Honour will have observed in looking at the
27 agreement of 1 January 1982, between the trust and
28 Woodley Heights Resort Development Pty Ltd, that it
29 provided in Clause 1, after referring to the Water Act
30 and the regulations under
31 the - - -