

The Release

175 If, however, I am wrong with respect to the above matters then in my view it is apparent that the release given with respect to the Woodleigh Supreme Court proceedings is a complete bar to the present action.

176 I accept that as the firstnamed plaintiff submits, a release is prima facie restricted to the matters forming the subject matter of the dispute which the settlement agreement concludes.⁴⁹ But in the present instance the parties have expressed the relationship between the subject matter of the proceeding and future claims in the widest possible terms. The words utilised in the release could scarcely be broader: "all actions, suits, demands, and costs, arising out of or in any way related to the subject matter of the proceedings". The phrase "related to" has been recognised as having a deliberately broad intent.⁵⁰ In *IBM Australia Ltd v National Distribution Services Ltd*, Clarke and Handley JJA commented on the wide scope that should be given to the words "related to" or "in relation to" in an arbitration agreement. Handley JA relevantly stated that:⁵¹

"The arbitration clause in this case covered 'any controversy or claim arising out of or related to this Agreement or the breach thereof'. That part of the submission which contained an agreement to refer controversies or claims 'arising out of the Agreement or the breach thereof' appears to cover every conceivable claim which either party might have against the other in contract. In a particular context the same words may also cover other claims as well. However that may be this clause contains, in addition, an agreement to refer controversies and claims 'related to this Agreement or the breach thereof'. These are wide words which should not be read down in the absence of some compelling reason for doing so... These words can only have been added to include within the submission claims other than in contract such as claims in tort, in restitution, or in equity. I can see no basis for excluding claims arising

⁴⁹ *Grant v John Grant & Sons Pty Ltd* (1954) 91 CLR 112 at 131.

⁵⁰ *IBM Australia Ltd v National Distribution Services Ltd* (1991) 22 NSWLR 466 at 483 per Clarke JA, at 487 per Handley JA; cf *Fountain v Alexander* (1982) 150 CLR 615 at 629 per Mason J; *Perlman v Perlman* (1984) 155 CLR 474 at 489 per Mason J.

⁵¹ (1991) 22 NSWLR 466 at 487.