

IN THE COURT OF APPEAL
OF THE SUPREME COURT OF VICTORIA

No. 1 of 2016

BETWEEN:

URSZULA BOBROWSKI

(APPELLANT)

and

ALEXI KAMINSKI

(RESPONDENT)

RESPONDENT'S OUTLINE OF SUBMISSIONS
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SENIOR COUNSEL: Joshua Crowther

JUNIOR COUNSEL: Sean Lally

INSTRUCTING SOLICITOR: Sama Rahman

Summary of Submissions

- 1. A binding contract never came into existence between the parties**
- 2. There was no detrimental reliance to support an estoppel claim**

1. A binding contract never came into existence between the parties

1.1 The absence of a written document precludes the existence of a binding contract pursuant to the Statute of Frauds

- *The Property Law Act 1958* (Vic) s 53(1)(a)
- *The Instruments Act 1958* (Vic) s 126(1)
- *Adamson v Hayes* (1973) 130 CLR 276

1.2 There was no consideration provided by Urszula

- *Sidhu v Van Dyke* (2014) 251 CLR 505
- *Ogilvie v Ryan* (1976) 3 NSWLR 504
- *Beaton v McDivitt* (1987) 13 NSWLR 162

1.2 The contract is unenforceable for want of certainty

- *Godecke v Kirwan* (1973) 129 CLR 629
- *Council of the Upper Hunter County District v Australian Chilling and Freezing Co Ltd* (1968) 118 CLR 429

2. There was no detrimental reliance to support an estoppel claim

2.1 The outcome of Urszula's reliance on the representation of Alexi did not constitute a detriment

- *Waltons Stores (Interstate) Ltd v Maher* (1988) 164 CLR 387
- *W v G* (1996) 20 Fam LR 4
- *Je Maintiendrai v Quaglia* (1980) 26 SASR 101

2.2 Urszula's actions in reliance were unreasonable

- *Waltons stores (Interstate) Ltd v Maher* (1988) 164 CLR 387
- *Giumelli v Giumelli* (1999) 196 CLR 10
- *Sidhu v Van Dyke* (2014) 251 CLR 505

2.3 Expectation loss does not constitute detrimental reliance

- *Waltons Stores (Interstate) Ltd v Maher* (1988) 164 CLR 387
- *Ogilvie v Ryan* (1976) 3 NSWLR 504

- *Je Maintiendrai v Quaglia* (1980) 26 SASR 101

AUTHORITIES CITED

A Cases

Adamson v Hayes (1973) 130 CLR 276

Beaton v McDivitt (1987) 13 NSWLR 162

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B Legislation

The Instruments Act 1958 (Vic)

The Property Law Act 1958 (Vic)