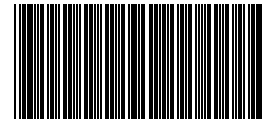




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Written Submissions

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
List	Court of Appeal
Registry	Supreme Court Sydney
Case number	2025/00076545

TITLE OF PROCEEDINGS

First Appellant	Grapple Pay Pty Ltd ACN 655721618
First Respondent	Ingrid Doris Conroy in her capacity as trustee of The Bungabbee Frist Light Trust
Second Respondent	Manuel Hanna as the Trustee of the bankrupt Estate of Jarrod Arthur Conroy

FILING DETAILS

Filed for	Ingrid Doris Conroy in her capacity as trustee of The Bungabbee Frist Light Trust, Respondent 1
Legal representative	Karl Burnett
Legal representative reference	
Telephone	0293445151
Your reference	Conroy ats Grapple Pay Pty Ltd

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Written Submissions (Updated Respondent's Submissions - 14 July 2025 with Slr Certification for Publication.pdf)

[attach.]

SUPREME COURT OF NEW SOUTH WALES
COURT OF APPEAL

No. 2025 / 00076545

Grapple Pay Pty Ltd
Appellant

Ingrid Doris Conroy
First respondent
& Anor.

FIRST RESPONDENT'S SUBMISSIONS
UPDATED WITH UNDERLINED CORRECTIONS

1. This case concerns an elderly woman, the first respondent (**Ingrid**), who paid \$665,076.31 to purchase certain land known as lot 31 in DP 869759 (**Property**): J[65].¹ Using that money, a trustee who was also Ingrid's son,² compromised and discharged liabilities of the trust in the amount of \$746,866.31, which well exceeded the Property's value at the time (\$700,000): J[158].³ At the time of the purchase, Ingrid did not know that the trust had creditors other than the two her money discharged: J[185] and [188].⁴
2. Ingrid had advanced or prepaid most of the above monies *before* the transfer (\$595,076.31) to discharge two of the trust's creditors, Sempre Funding Pty Ltd (**Sempre**)(J[30]),⁵ a secured mortgagee, and Ms Isabel Lucas: J[58], [62] and [63].⁶ Ingrid used the phrase "Larnook Purchase" to describe the two payments of \$200,000 to Ms Lucas: J[62] and [63].⁷ Ingrid paid an additional \$70,000 to Ms Lucas a few months after the transfer: J[71].⁸ Ms Lucas agreed to accept those payments (and an additional \$9,827) in full and final settlement of her claims: J[160] and J[144].⁹ Thus, the trust used the money Ingrid had made available to rid itself of \$746,866.31 in liabilities, which exceeded the value of its only asset: J[160] and [161].¹⁰ Ingrid's payments enabled the trustee to do so: J[77].¹¹
3. At trial, the appellant (**Grapple**) did not seriously challenge the trust's liability to Sempre or to Ms Lucas: J[29]¹² and [146].¹³ It did not dispute the \$665,076.31 was Ingrid's money:

¹ Red, 59Q.

² J[32] at Red, 53M.

³ Red, 80M.

⁴ Red, 85J to P and 86H to K.

⁵ Red, 53I.

⁶ Red, 58Q, 59F, 59K; see also Blue 1, 306 at I, M and O.

⁷ Red, 59H, 59M.

⁸ Red, 60W.

⁹ Red, 80P and 76W.

¹⁰ Red, 80P.

¹¹ Red, 61P.

¹² Red, 53F.

¹³ Red, 77J.

J[41] and [43].¹⁴ It did not challenge the timing of Ingrid's payments. It did not challenge as dishonest Ingrid's use of the phrase "Larnook purchase" to describe payments to Ms Lucas.¹⁵ Nor did it challenge Ingrid's evidence that she intended to live in the Property after purchase: J[186].¹⁶ Crucially, it failed to demonstrate that Ingrid knew the trust had any creditors other than Sempre and Ms Lucas: J[185] and [188].¹⁷

4. The learned trial judge dismissed the case against Ingrid. The question on the appeal is whether his Honour erred as Grapple contends in the Notice of Appeal filed on 19 May 2025 (**NoA**).¹⁸ For the reasons set out herein, this Court would find his Honour did not. The appeal would be dismissed with costs.

The Notice of Appeal and Grapple's submissions

5. The NoA was filed on 19 May 2025 three months after the material date. It notified 14 appeal grounds, but there appears to be little connection between them and some of the appellant's submissions engrossed in a document dated 30 June 2025 (**AS**). Indeed, the AS does not refer directly either to the NoA or to any of the appeal grounds. These submissions attempt to deal with the appeal grounds set out in the NoA in the most apposite order; they address the question of intention, notice and value in turn. Ingrid objects to arguments that stray beyond the NoA, given no application has been made for leave to amend it.

Intention to defraud creditors: grounds NoA[1], [8], [9], [13] and [14]

6. Grapple pleaded *Jarrold's* purpose for the transfer was to place the Property beyond the reach of "creditors of Jarrod" both in his personal capacity and as trustee, and to defraud, delay or otherwise hinder creditors.¹⁹ It contended that assertions by Jarrod that the transfer should take place "swiftly" evidenced an intention to defraud creditors.
7. The trial judge rejected Grapple's case. At J[174],²⁰ his Honour found the trustee had intended to prefer Ms Lucas over Grapple in undertaking the transfer of the Property and the payments of money by Ingrid to Ms Lucas. At J[167],²¹ his Honour found the trustee's desire for speed in undertaking the transfer was motivated by his intention to "ensure Ms Lucas received the full amount which she was owed" prior to Grapple enforcing its

¹⁴ Red, 55I, 55T.

¹⁵ Blue 1, 306M and 306O.

¹⁶ Red, 87Q.

¹⁷ Red, 87K, 88I.

¹⁸ Red, 111 to 116.

¹⁹ See Red, 15U at [26C].

²⁰ Red, 84L.

²¹ Red, 82I.

guarantee. His Honour found no indication that the impugned transaction reserved any benefit for the trustee.

8. The learned primary judge's findings of fact, the inferences that were drawn and reasoning that supported his conclusions are principled and cohesive. They flowed from facts that were not reasonably in dispute and sound legal conclusions therefrom. None of Grapple's grounds NoA[1], [8] or [9] and [14] nor the submissions that support them expose any error.
9. The most salient of the facts and conclusions that supported Ingrid's arguments at trial were as follows:
 - a. The Property had been purchased by a *trustee*; it was not Jarrod's property.
 - b. The \$551,790 Ms Lucas paid towards the purchase of the Property in 2021 was not a gift: J[29].²² That payment was either a loan to the trust or a contribution towards the purchase of trust property: J[168].²³ On either scenario, Ms Lucas dealt with a *trustee* and became a trust creditor in 2021 (*cf* AS[20] to [22]).
 - c. Ms Lucas' relationship in the instance of the above payment was with a trustee, not with Jarrod *personally*; it is erroneous to conflate the two as Grapple appears to do throughout the AS. The close *personal* relationship between Jarrod and Ms Lucas was relevant only to explain the motivation behind the preference: J[167]²⁴ (*cf* AS[20] to [22]).
 - d. By 2022, Ms Lucas wished to be repaid. A third party later described the wish to be repaid as Ms Lucas' desire to sever the "financial connection" with Jarrod,²⁵ but the only financial connection she had on the evidence was with Jarrod *as trustee*.
 - e. As part of an arrangement she reached with Jarrod the *trustee*, the effect of which Grapple did not dispute, Ms Lucas agreed to settle her claims against the trust fully and finally for \$479,827: J[77].²⁶ Ingrid made those funds available to the trust; her readiness to do so was integral to the arrangement being reached.

²² Red, 53G.

²³ Red, 82N.

²⁴ Red, 82I.

²⁵ Blue 2, 958J.

²⁶ Red, 61S.

- f. From Ms Lucas' perspective, therefore, she was to be repaid significant amounts albeit that they were less than she had originally loaned or contributed.
 - g. From the trustee's perspective, the transaction involved the conversion of Property to cash that was used to rid the trust of its extensive liabilities. Those transactions effected no diminution of the fund for the satisfaction of the trust's creditors.²⁷ Rather, the arrangement with Ms Lucas decreased the trust's indebtedness substantially; if Ingrid had not paid out the creditors, the trust would have owed them \$746,866.31.
 - h. Grapple was likely not prejudiced at all by the transactions above, as it would have likely stood behind Sempre and Ms Lucas in priority: J[170].²⁸ If Ms Lucas' payment was a contribution towards the purchase of trust property, her equity was likely better than Grapple's. Thus, there would have been nothing left to pay Grapple if the Property had been sold and the other two creditors had remained unpaid.
10. Based on those matters, his Honour was correct to find that the trustee likely intended to prefer Ms Lucas over Grapple when he effected the transactions whereby Ingrid paid Ms Lucas all but \$9,827 of the compromised amount in full and received the Property. The finding was well open to his Honour and the reasoning does not leave Grapple room to argue otherwise (*cf* AS[16]).
 11. Grapple seeks to contend in the AS, but not the NoA, that the preference argument fails, because Ingrid was never a creditor of the trust. That submission is unpersuasive and leave would not be granted to run it.
 12. First, Grapple never squarely made the point at trial. Indeed, it opened the trial by contending *inter alia* that the trustee undertook the transaction with the intention to defraud creditors *because* it amounted to "...preferring other creditors over others".²⁹ The transaction the appellant described to the trial judge had two elements: first, the transfer of the Property to Ingrid and, second, the discharge of Sempre's and Ms Lucas' debts using Ingrid's money. Grapple submitted in opening, "[w]hen you have in this case, as the defendant puts it, this property was sold to the mother covering the debt, as it were, of another creditor, then that is the preferred position, over that to the detriment of other

²⁷ See *Cannane v J Cannane Pty Limited (In Liquidation)* (1998) 192 CLR 557 by Brennan CJ and McHugh J at 566 to 567.

²⁸ Red, 82U.

²⁹ Black, 9E.

creditors who could have had realisation of that property”.³⁰ It took substantially the same position in closing.³¹ At J[174],³² his Honour found the transactions effected a preference in substantially the same terms as Grapple submitted at trial. Accordingly, the argument that Ingrid was not a creditor appears to have been conceived recently and after the NoA was filed.

13. Second, the contention that Ingrid was never a creditor of the trust lacks substance. It is not disputed that by 1 September 2022, Ingrid had paid \$595,076.31 to Sempre and Ms Lucas. It matters not that her payments to Sempre redeemed a mortgage the trustee had given to secure a loan to Prana (*cf* AS[16(g)] and [17(a)]). By 1 September 2022, therefore, Ingrid was at least entitled to be repaid the entirety of those monies from the trust.
14. At J[143],³³ his Honour found the references to Ms Lucas and “Larnook Purchase” in Ingrid’s bank statements “indicate that it was Ms Conroy’s understanding both that she was *purchasing* the Property and that she was making a payment to Ms Lucas in connection with and for the purpose of that purchase”: J[143] (original emphasis).³⁴ The other side of the transaction, the trustee, was *ad idem*. Those matters amply support the proposition that Ingrid wanted to purchase the Property, that until the transfer, Ingrid was at least a creditor having paid \$595,076.31 for no consideration (*cf* AS[19]).
15. That Ingrid wanted to live on the Property to be near her family and was probably motivated in part to assist Jarrod (see J[186])³⁵ supported the trial judge’s findings as to her intentions to purchase the Property. NoA[13]³⁶ asserts an error in the finding at J[186] that Ingrid was in part motivated to assist Jarrod, but the claimed error is unexplained in the AS.
16. The final two arguments Grapple makes in support of NoA[1], [8], [9] are, first, that the payments Ingrid made were less than the valuation of the Property (put in various forms at AS[23], to [28]) and second, that the trustee reserved to himself some benefit. Those arguments are unpersuasive for the following reasons.
17. First, as the trial judge found at J[156] to [160],³⁷ the trust received value that exceeded the market value of the Property. Nothing in AS[23] and [24] would persuade the Court

³⁰ Black, 9K to N.

³¹ Black, 303W to 304F.

³² Red, 84L.

³³ Red, 76O.

³⁴ Red, 76Q.

³⁵ Red, 87Q.

³⁶ Red, 113F.

³⁷ Red, 80F to 80L.

that his Honour's analysis or conclusions were incorrect. Similarly, the elements of the submissions at AS[25] to [26] were never put to Ingrid in cross-examination and not raised below. In any event, they do not advance Grapple's case in light of the analysis undertaken above, the fact and quantum of the payments Ingrid made.

18. Second, the legal basis for Grapple's argument is unclear. The authorities cited by Grapple do not appear to support the proposition in AS[13(c)]. Rather, the anchoring proposition in those authorities seems to be that it suffices that the preference is given to a genuine creditor. Here, it was.
19. Finally, there is no indication that the trustee reserved any benefit to himself: J[174].³⁸ Despite asserting the point, Grapple has identified no such benefit; the suggestion that the retained benefit to the *trustee* was the fact that Ingrid would live close to him lacks substance and suffers from the erroneous conflation of Jarrod the person and Jarrod the trustee (*cf* see AS[27] and [28]).
20. For those reasons, grounds NoA[1], [8], [9], [13] and [14] would be rejected, which disposes of Grapple's appeal.

Notice of intention to defraud creditors: grounds NoA[2], [3], [10], [11], [12]

21. Grapple pleaded that Ingrid had notice of "Grapple's Interest as a Creditor"³⁹ *attaching* to the property of the trust.⁴⁰ The quoted phrase was used to define Grapple's guarantee: see the particulars to ASOC[19].⁴¹ Grapple thus claimed Ingrid had notice of its guarantee and, presumably, the *trust's* liability thereunder.
22. The learned primary judge said he would reject Grapple's contention if he had been required to do so: J[178].⁴²
23. His Honour found at J[185]⁴³ that there was no evidence that Ingrid was aware that the trustee had given a guarantee in relation to Prana's liability to Grapple. That finding is not challenged on the appeal.⁴⁴ Nor is the essence of the findings in J[188], namely that "there was no evidence that [Ingrid] was aware that there were any other creditors [other than Sempre and Ms Lucas] of the trust". Those two findings are enough to dispose of Grapple's appeal as it pertains to notice. The complaint at NoA[12] simply does not arise,

³⁸ Red, 84L.

³⁹ Red, 16H ff.

⁴⁰ Red, 16J.

⁴¹ Red, 15G.

⁴² Red, 84X.

⁴³ Red, 87K.

⁴⁴ [1(g)] of Grapple's statement of challenged facts is limited to Ingrid's knowledge of Prana's liability to Grapple.

given his Honour did not find the defence was made out on the basis that Ingrid was not aware of Prana's liabilities or the specific liability of the trust to Grapple (*cf* AS[34] and [35]).

24. Further, Grapple has not – and cannot plausibly – attack his Honour's acceptance of Ingrid's denials that she knew of Grapple's guarantee at the time of the transfer (J[185]),⁴⁵ especially given that finding was based in part on his Honour's assessment of Ingrid's credit (*cf* AS[36]). The statements at AS[37] to [41] do not assist Grapple in light of its failure to challenge the above-mentioned findings in J[185] and [188].⁴⁶
25. Accordingly, the other attacks on findings made by the learned primary judge in relation to notice are of no consequence as they do not assist Grapple. They are nevertheless addressed briefly below.
26. NoA[3] concerns the finding at J[135]⁴⁷ to the effect that there was no evidence that Ms Conroy was aware of or agreed with the contents of the statement "without monetary consideration" in the transfer on title.⁴⁸ Grapple relies on a document at Blue 1, 495 to 497 to support its attack on that finding, but the document it identifies does not contain that statement. Being unsupported by evidence, the attack fails. In any event, Ingrid's knowledge of the statement did not matter, because she made payments she intended to be for the purchase of the Property: J[137].⁴⁹
27. NoA[10] concerns the finding at J[181]⁵⁰ that there was no evidence that Ingrid was aware of Prana's financial position. That finding should be read together with the balance of the findings in that paragraph, including the absence of "any objective evidence that Mr Conroy informed her of Prana's financial position during this period": J[181].⁵¹ At trial – and despite having called him – Grapple contended that "[w]here the evidence of Jarrod was not supported by "reliable" contemporaneous documents or otherwise adverse to Ingrid's position, his evidence should not be accepted".⁵² In light of that submission and the submission at AS[6(a)], Grapple's reliance on only some portions of Jarrod's evidence to upend the primary judge's findings is misplaced (*cf* [2(i)] of the statement of challenged facts). In any event, Ingrid's knowledge of Prana's financial position does not assist Grapple, because she did not know of Grapple's guarantee.

⁴⁵ Red, 87K.

⁴⁶ Red, 87K, 88H.

⁴⁷ Red, 74T.

⁴⁸ Blue 1, 515O.

⁴⁹ Red, 75K.

⁵⁰ Red, 85S.

⁵¹ Red, 85X.

⁵² Black, 385T.

28. NoA[11] is directed to J[185]⁵³ and the finding that Ingrid was not aware of Prana's liability to Grapple. [2(j)] of the appellant's statement of challenged facts refers to two portions of transcript to overturn that factual finding: the first is an exchange in which Ingrid agreed she was responsible for "recording expenses" at Prana.⁵⁴ The second is a passage, in which Ingrid agreed she was aware that Grapple was paying supplier invoices and recorded payments had been made by Grapple.⁵⁵ Those passages do not assist Grapple, especially given the cross-examiner did not specify any time other than a reference to 2021 to contextualise the questions. In light of the shortcomings in the questions, the evidence relied on has no value. In light of those questions and Ingrid's unremarkable answers, his Honour was correct to reach the conclusion at J[185].⁵⁶

29. For those reasons, grounds NoA[2], [3], [10], [11], [12] must fail.

Value: NoA[4] to [7]

30. Ingrid's case at trial was that she was a purchaser of the Property for value.⁵⁷ She contended, and the primary judge accepted, she had paid \$665,076.31 to discharge the liabilities of the trust to Sempre (\$195,076.31) and Ms Lucas (\$551,790): J[160].⁵⁸ Grapple did not challenge the fact of those payments (and the assertions at AS[17] do not advance Grapple's arguments).

31. In opening, Grapple invited the Court simply to ignore the payments Ingrid had made.⁵⁹ In closing, its position boiled down to the argument that because the transfer said there was no consideration, the payments she had in fact made ought to be ignored.⁶⁰ NoA[4] to [7] are variations on the same contention. Unfortunately, Grapple's submissions in relation to value are dispersed throughout the AS and do not address those grounds directly. These submissions attempt to deal with those grounds by dealing with the findings at the heart of the value issue.

32. His Honour's reasoning concerning value was extensive and detailed. At J[132], [133], [138] and [139],⁶¹ his Honour summarised the elements of Grapple's claims and rejected the heavy reliance on the contents of the transfer: J[135].⁶²

⁵³ Red, 87K.

⁵⁴ Black, 227L to N.

⁵⁵ Black, 228F to L.

⁵⁶ Red, 87K.

⁵⁷ Red, 28R ff at [26C].

⁵⁸ Red, 80P.

⁵⁹ Black, 360R.

⁶⁰ Black, 397J to 398I.

⁶¹ Red, 74H, 74J, 75R, 75U.

⁶² Red, 74S.

33. Then, the primary judge said at J[137]⁶³ "...the simple and undisputed fact is that Ms Conroy made substantial payments...for the discharge of the Sempre Mortgage...and to Ms Lucas" plus stamp duty, costs and fees. That observation was prescient and compelling.
34. In *Barton v Official Receiver* (1986) 161 CLR 75, Gibbs CJ, Mason, Wilson and Dawson JJ at 86 endorsed the definition of "valuable consideration" as consideration that was of "real and substantial value" and not one which is "merely nominal or trivial or colourable": The Queensland Court of Appeal in *Wise Investments Pty Ltd v Ruddy Tomlins & Baxter & Anor* [2019] QCA 271 took a similar approach at [58]. In essence, the Court there found that consideration need not be *paid* but must be valuable to the transferor: at [59].
35. In this case, the consideration Ingrid paid was clearly valuable to the trust: J[159].⁶⁴ The primary judge calculated she had paid 95% of the assessed value of the Property (J[159])⁶⁵ and observed at J[160] and [161]⁶⁶ that the value of the transactions to the trust was well in excess of the Property's market value. On no view, therefore, can Ingrid's payments be described as nominal or trivial. None of Grapple's submissions would persuade this Court that the trial judge erred in this regard.
36. For those reasons, grounds NoA[4] to [7] fail.

Relief

37. For the reasons herein and those that will be developed orally, this Court would not be persuaded that his Honour erred. Thus, the appeal would be dismissed with costs.

16 July 2025



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I certify that this document is suitable for publication.

Signed:-



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⁶³ Red, 75K.

⁶⁴ Red, 80O.

⁶⁵ Red, 80O.

⁶⁶ Red, 80P to 80W.