

***PRH v LPL* [2021] QDC 17 (3 February 2021) – Queensland District Court**

‘Appeal against orders made in a domestic violence proceeding’ – ‘Ouster condition’ – ‘Protection orders’

Proceedings: Appeal against orders made in a domestic violence proceeding.

Facts: The appellant was prohibited from entering, remaining, approaching etc within 500 metres of the first respondent’s (aggrieved) usual place of residence and from following or approaching within 500 metres of the aggrieved. The appellant was also prohibited from entering, remaining, approaching etc to within 200 metres of premises where the named person usually lived, worked or frequented. The magistrate further ordered that the first respondent have sole right of occupancy of the Buddina residence.

Grounds of appeal: 15 grounds of appeal centred around the court below denying procedural fairness to the appellant by refusing to permit evidence to be led and wrongfully accepting false and misleading evidence given by the first respondent.

Held: Appeal dismissed, subject to a number of variations.

In particular, the imposition of a seven-year ouster condition was neither necessary to protect the first respondent nor desirable. The first respondent did not want to move as the property “was her home, she felt safe there”. However, the appellant was the registered proprietor of the property. The first respondent had had the benefit of the ouster condition for two years and three months. She also had the financial capacity to purchase alternative premises/rent.