

In a move relevant to Singapore contract law, the High Court of Australia has held that a contractor's claim in quantum meruit following repudiation of a contract will generally be limited to the contract price (*Mann v Paterson Constructions Pty Ltd* [2019] HCA 32). This departs from the Privy Council in *Lodder v Slowey* [1904] AC 442 and a line of Australian cases since that imposed no such limit.

Lodder v Slowey held that contracts terminated for repudiation were rescinded ab initio with the result that claims for compensation were at large, unrestricted by the now non-existent contract. This rescission fallacy was debunked in Australia in *McDonald v Dennys Lascelles Ltd* (1933) 48 CLR 457, establishing the orthodox position that such contracts are binding up to termination but not for the future. Rights accrued to termination are enforceable, but claims relating to the future, such as for partially completed stages of work where payment rights have not yet accrued, are not governed by the contract. For those future claims, contractors are able to elect between damages for breach of contract and quantum meruit.

Quantum meruit claims under *Lodder v Slowey* were limited only by the reasonable value of the work. Australian intermediate appellate courts continued to apply this theory despite removal of the rescission fallacy, saying that it was only for the High Court to depart from the Privy Council and a century of its application.

Mann v Paterson Constructions Pty Ltd held that, where a contractor terminates a contract for repudiation by the principal, the contractor may recover:

- For discrete stages of work completed at the time of termination where the right to payment has accrued, amounts calculated under the contract
- For partially completed stages of work where the right to payment has not accrued, damages for breach of contract, or on a quantum meruit calculated in accordance with the contract unless that would be unconscionable

Limiting quantum meruit claims in this way accords with the parties' allocation of risk and prevents windfalls to contractors where it is more profitable to engineer a repudiation by the principal than it is to perform the contract.

Employment contracts were included in the High Court's analysis, indicating that this approach is open where any contract has been partly performed at the time of termination but the right to payment has not yet accrued under its terms. The terminating party may elect between damages under the contract, or quantum meruit generally calculated in accordance with the contract.

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