

# Jackson Smith solicitors

How your clients with problems with their current financiers can get prompt assistance to unlock opportunities...

Early in August 2003 a client was referred to us by the solicitor who is assisting them in their commercial dealings. The client is subdividing a large tract of land on the north coast of NSW and had been financed by a major bank.

The bank had withdrawn funding, and because there had been a default, had placed a credit default notice against the client's name and against the name of one of his companies. The default notice was preventing our client obtaining finance to conclude an initial part of the subdivision that would have netted a significant amount of money.

The client had been receiving advice over many months on the Banking issues, and there had been many letters exchanged between the bank and the firm of solicitors who were advising on those issues. The bank was threatening to appoint an agent to sell the property to recover monies owing to it.

After a careful examination of the documentation setting out the full relationship between the bank and the client it seemed to us that the financiers had a lot to answer for in relation to the client's difficulties.

We advised the client that an immediate approach should be made to the court to require the bank to remove the credit default notice and restrain it from appointing an agent for the sale of the property. This approach to the court was made within a few days of us receiving instructions.

We were successful in getting the orders that we sought for the client, who is now proceeding to finalise refinance and conclude the subdivision using the original lawyers we referred the client back to. We are continuing to assist with the ongoing fight with the bank.

This case demonstrates yet again why it is often useful to get assistance from experts in banking in situations like this where advisers without the depth of experience may not appreciate all the potential avenues of redress open to their clients.

Over recent years most banks and other financiers have lifted their game in lending and relationship procedures, but there are still thousands of situations out there in which they have done the wrong thing...often unintentionally certainly, but still to the serious detriment of the borrowers in many cases, and expert help can be the key to unlocking a decent result for those borrowers.

I hope that this information is of some interest and benefit to you, and to your clients.

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