

# Franco Corsaro SC

Barrister 1985

Silk 2000

(02) 9151 2922

franco.corsaro@greenway.com.au



Franco Corsaro SC is a highly regarded senior construction and commercial barrister with a diverse knowledge and experience across many practice areas.

Franco has appeared in Courts and Tribunals in various states and Territories and in international arbitrations outside Australia.

Franco is currently listed as a leading senior council in the 2020 Doyles Guide. The 2020 listing maintains Franco's ranking as a leading construction law practitioner in New South Wales and Australia in the Doyles Guide over several years.

Franco is consistently briefed to advise and appear for principals, contractors, public institutions, government, insurers and leading construction companies in disputes involving high-value engineering and infrastructure disputes.

Franco is also consistently briefed to advise and appear in a variety of disputes with a wide range of commercial issues involving property transactions, the sale of shares and property, intellectual property, insurance, administrative law issues and company disputes.

Franco is results driven and is always concerned with implementing the most advantageous approach to resolve each case in the best and most cost-effective way for the client. His emphasis is to extract the significant factual and legal principles on which each case will turn, and to give them the highest priority.

Franco is a diligent and committed advocate, with an excellent reputation for the development of excellent forensic strategy, effective all-round advocacy, and well-honed and incisive cross-examination skills.

Franco particularly enjoys the factual and legal foundation on which every case is built. He builds from these intellectual underpinnings to develop the best forensic strategy which maximises the prospects of a successful outcome. He works closely with his solicitors and clients in a collegiate approach. Franco ensures all concerned have a well-developed understanding of the legal and factual issues on which the case will turn, which enables the client to make informed commercial decisions. He provides certainty and peace of mind to his solicitors, and an enriching experience as they explore the matter's inherent legal principles together.

Franco has substantial knowledge and experience in alternate dispute resolution. From 2002-2005, Franco was a part-time lecturer in commercial arbitration at the University of Technology, Sydney, and has appeared for both claimants and respondents in a variety of domestic and international arbitration, as well as expert and neutral evaluations.

Franco was appointed a part-time Senior Member of the NSW Civil and Administrative Tribunal in 2017. He is also an accredited mediator.

#### **QUALIFICATIONS**

---

- BEc/LLb (Sydney) - Graduating in Law 1980
- 2002 - 2005 Lecturer Commercial Arbitration (Domestic) postgraduate course University of Technology Sydney
- 2002 - 2005 lecturer Commercial Arbitration (Domestic) post graduate course University of Technology Sydney.
- Accredited mediator

#### **SPECIALISATIONS**

---

- Building and construction law
- Commercial law and equity
- Infrastructure law
- Corporations law
- Intellectual property law
- Insurance law
- Administrative law

#### **NOTABLE CASES**

---

##### **Brookfield Multiplex Ltd v Owners - Strata Plan No 61288 (2014) 254 CLR 185.**

Franco appeared in the High Court of Australia for the owners' corporation of a residential strata scheme. This is the seminal case in which the High Court full bench determined that the builder of a strata scheme did not owe a duty of care to an owners' corporation for defective building work. It also re-assessed the concept of 'vulnerability' in that context.

##### **Scott Carver Pty Ltd v SAS Trustee Corporation [2005] NSWCA 462 (special leave refused).**

Franco appeared for the owner of a multi-storey office building which successfully recovered damages for defective design and construction. The owner sold without diminution in the value of the building. The central issue was whether the owner could recover where there was no loss in value. The case was significant because the court considered the significance of *Bellgrove v Eldridge* in these circumstances.

##### **Owners of Strata Plan 43551 v Walter Construction Group (2004) 62 NSWLR 169.**

Franco appeared at first instance and on appeal for a residential scheme owners' corporation after the trial judge had determined it had no standing to sue the builder for defective work in the common property. In overturning that decision, the NSW Court of Appeal re-examined the right of the owners' corporation as registered owner of the common property to sue for defects.

**Ohn v Walton (1995) 36 NSWLR 77.** Franco appeared in the Medical Tribunal and on appeal in this significant case. The Court of Appeal established as a principle that, where the rules do not provide otherwise, costs should follow the event in all courts and tribunals.

## Recent Cases

**Roude v Helwani [2020] NSWSC 123.** NSW Supreme Court case involving an appeal on principles of quantum meruit.

**ET-China.com International Holdings Ltd v Cheung [2019] NSWSC 1874.** NSW Supreme Court case concerning a shareholder oppression dispute involving offshore companies.

**Angelis as trustee for the Angelis Family Trust v Pemba Capital Partners Fund I Partnership, LP (No 3) [2019] NSWSC 1759.** NSW Supreme Court case concerning a company shareholder oppression dispute which involved the acquisition and valuation of a substantial insurance broking business.

**Howden Australia Pty Ltd v Minetek Pty Ltd (No 3) [2019] FCA 1851.** These proceedings, currently before the Federal Court of Australia, concern an alleged breach of confidential information involving a patent for mining infrastructure.

**O’Ryan v Golding [2019] NSWSC 1229.** Company law dispute involving company title units.

**Glenquarry Park Investments Pty Ltd v Hegyesi [2019] NSWSC 1120.** NSW Supreme Court proceedings concerning a strata dispute relating to strata improvements.

**Strike Australia Pty Ltd v Data Base Corporate Pty Ltd [2019] NSWCA 205.** NSW Court of Appeal case concerning a lease dispute centred on a rent review clause.

**DM Drainage & Constructions Pty Ltd As trustee for DM Unit Trust t/as DM Civil V Karara Mining Ltd [No 5] [2019] WASC 118.**

**Bellerive Homes Pty Ltd v FW Projects Pty Ltd [2019] NSWSC 193.** NSW Supreme Court case concerning security of payment and focused on enforcement of judgment and contempt.

**eify Pty Ltd v 3D Safety Services Pty Ltd [2018] FCA 1017.** Federal Court of Australia proceedings involving an alleged breach of confidential information and copyright relating to an online induction system.

**Brighton Australia Pty Ltd v Multiplex Constructions Pty Ltd [2018] VSC 246.** Victorian Supreme Court concerning misleading and deceptive conduct.

**New Galaxy Investments Pty Ltd v Thomson & Ors (No 2) [2017] NSWCA 235.** NSW Court of Appeal case concerning a caveat and trust dispute.

**Kathleen Jeanne Furlong & Mark Andrew Leishman (a bankrupt) v Wise & Young Pty Ltd [2016] NSWSC 1839.** NSW Supreme Court involving a caveat/mortgage dispute.

**Qi Wang v Kaymet Corporation Pty Limited [2016] NSWSC 742.** NSW Supreme Court case involving a sunset clause dispute which led to the change in the sunset clause provisions in the Conveyancing Act.

## Significant Arbitrations that have proceeded to award

**Domestic arbitration.** \$20 million arbitration claim relating to damages for contamination of land.

**Domestic arbitration.** \$3 million global claim for additional remuneration arising out of the construction of a mining levee.

**Domestic arbitration.** \$6 million claim for additional works associated with electrical services work.

**Claims involving Australian and US parties.** \$50 million claim for the negligent design of the refining process in a Bacox gold refining plant.

**Claims involving French and Australian parties.** \$50 million international arbitration dispute in Hong Kong involving the collapse of an underground containment facility.

**Claims involving US and Australian parties.** \$20 million international arbitration involving a fire claim allegedly caused by a component of an air conditioning module for a mobile home.

**Claims involving Chinese and US parties.** \$500 million international arbitration claims and counter claims in Dublin involving the design and construction of a thermal power station in Guatemala.

**Domestic arbitration.** \$20 million domestic arbitration claim in Australia involving several separate tranches of the design and construction of an Australian marine coal loader marine and shore works.

**Claims involving Australian and Dutch parties.** \$10 million international arbitration claim involving the design and construction of a stacking system for an Australian warehouse, particularly the ability of the components to withstand loads.

**Domestic Arbitration.** Multi-million-dollar claims and cross claims arising out of the design and construction of onshore and offshore coal handling facilities and a coal loader in Queensland.