

# [Pastizzi claims that they were banned from the](https://assignbuster.com/pastizzi-claims-that-they-were-banned-from-the/)

Pastizzi Café Pty. LTD V HOSSAIN (NO 4)NSWSC 808 (28 July 2011) The legal major issues:·      If there is any breach of fiduciary duties by thefirst defendant Mr. Hossain or by the second plaintiff Mr.

Ross and thirdplaintiff Ms. Ross.·      Whether The Corporations Act section 232 whichaddresses the conduct of company affairs can be implied in this case·      Whether the damages for loss can be granted. The relevant facts:·      On mutual agreement between Mr. Ross and Mr. Hossain, a business under the name Pastizzi Café was started in 2007 in which both ofthem including Ms. Ross had their own contribution in the business and had anagreement of equal ownership of the company.·      Mr.

Ross and Ms. Ross claims that they were bannedfrom the business premises by Mr. Hossain and also claims that Mr. Hossainmisused the money from company account for own personal purpose.·      Mr. Hossain accused second and third plaintiff forrestricting him to access the financial information of the company. The actual decision of the case:·      On the basis of the definition of “ director” insection 9 of the Corporation Act which stated if a person fulfills the role ofdirector despite of informality declaration can be appointed as a director, thecourt declared third plaintiff Ms. Ross as a director of the company.

·      Mr. Hossain was proved for breaching two fiduciary dutiesunder Corporation Act s 182 which involves locking the other partners from thebusiness premises and using the money from company’s account for personalbenefit. Thus the court ordered him to restore the possession of the leasedpremises to the first plaintiff upon approval of the landlord.

·      It was also decided and ordered by the court that Mr. Ross can buy Mr. Hossain’s shares of the company.·      The court found that the plaintiffs had not breachedsection 290 in which the right of director of company to access financialrecords is stated. This clarifies that Mr. Ross and Ms.

Ross didn’t restrictfirst defendant to the financial information of the company.·      The café was entitled to a compensation of $400, 000for the recovering of    damages ofprofits and goodwill.   The relevant law relied on by the judge inmaking his decisions are as: Corporation Act     Section 9: “ A person who is not validly appointed as a directorbut      has played significant role ofdirector is in fact entitled as a director”. This law was implied for thedeclaration of Ms. Ross as a director of the company.    Section290: “ All directors have right to access to the financial records at allreasonable times”.

Section 182: Fiduciary duties of a director – not to benefit self at the cost or expense ofother partners and  Observation:   The final verdict was,” Mr. Hossain, thefirst defendant of the case was found guilty for breaching fiduciary duties andwas charged with the compensation for the loss of profits and goodwill of thePastizza Café”. After careful examination of case study in accordance withlegislation law as referred, I morally bound with the court’s decision.