

Pastizzi claims that
they were banned
from the



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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 the first defendant Mr. Hossain or by the second plaintiff Mr.

Ross and third plaintiff Ms. Ross.· Whether The Corporations Act section 232 which addresses 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 of them including Ms. Ross had their own contribution in the business and had an agreement of equal ownership of the company.· Mr.

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

· Mr. Hossain was proved for breaching two fiduciary duties under Corporation Act s 182 which involves locking the other partners from the business premises and using the money from company’s account for personal benefit. Thus the court ordered him to restore the possession of the leased premises 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 breached section 290 in which the right of director of company to access financial records is stated. This clarifies that Mr. Ross and Ms.

Ross didn't restrict first defendant to the financial information of the company.· The café was entitled to a compensation of \$400, 000 for the recovering of damages of profits and goodwill. The relevant law relied on by the judge in making his decisions are as: Corporation Act Section 9: " A person who is not validly appointed as a director but has played significant role of director is in fact entitled as a director". This law was implied for the declaration of Ms. Ross as a director of the company. Section 290: " All directors have right to access to the financial records at all reasonable times".

Section 182: Fiduciary duties of a director - not to benefit self at the cost or expense of other partners and Observation: The final verdict was," Mr. Hossain, the first defendant of the case was found guilty for breaching fiduciary duties and was charged with the compensation for the loss of profits and goodwill of the Pastizza Café". After careful examination of case study in accordance with legislation law as referred, I morally bound with the court's decision.