No Signatory, No Standing: Queensland Court Overturns Arbitrator on Trustee Joinder

January 27, 2026

The resolution of commercial disputes through arbitration is often praised for its efficiency and privacy, yet its foundational authority remains strictly tethered to the consent of the parties. Unlike the broad jurisdiction of a court, an arbitrator's power extends only as far as the written agreement allows. This limitation becomes a critical battleground when complex corporate structures, such as family trusts involving split ownership and operational entities, collide with the rigid terms of a contract. In the recent decision of *Tailing Gully Farming Pty Ltd v Pratt* [2025] QSC 353, the Supreme Court of Queensland provided a definitive ruling on the limits of an arbitrator's jurisdiction over third-party trustees. The judgment serves as a stern reminder that financial entanglement is not a substitute for legal privity, establishing that a court must intervene when an arbitrator wrongfully expands their reach to include a "stranger to the contract."

The dispute arose from a lease of cane farming land in Queensland. The registered owner of the land, William Robert Pratt, entered into a written lease in 2019 with Tailing Gully Farming Pty Ltd (TGF). The agreement was explicit: Mr. Pratt was defined as "the Lessor" and TGF as "the Lessee." Clause 18 of the document contained a standard arbitration agreement, requiring that any dispute regarding the construction of the lease or the rights and liabilities of the parties be referred to arbitration.

As the commercial relationship soured, Mr. Pratt alleged that

TGF had breached various covenants of the lease, resulting in significant financial losses. He referred the matter to arbitration. However, a significant legal complication emerged during the proceedings. While Mr. Pratt was the signatory and land owner, the actual farming business was conducted by a related entity, Janella Farming Pty Ltd (Janella), acting as the trustee for the William Pratt Family Trust. Consequently, it was uncontroversial that the "overwhelming majority of losses claimed to have been suffered by Mr Pratt in the arbitration are in fact losses suffered by Janella."

Recognizing that the true financial victim was not the named lessor, the arbitrator decided to join Janella to the proceedings. The arbitrator reasoned that although Janella was not a signatory, the "inclusion of Janella as a party in the Arbitration is necessary because of the subject matter in controversy, rather than the formal nature of the claim." The arbitrator concluded that Janella had standing because it had a claim "through or under" Mr. Pratt.

TGF challenged this decision in the Supreme Court, arguing that the arbitrator had exceeded his jurisdiction. The Court's analysis, delivered by Justice Kelly, focused on the strict legal definition of a "party" under the *Commercial Arbitration Act 2013* (Qld). While the Act extends the definition of a party to include "any person claiming through or under a party to the arbitration agreement," the Court held that this phrasing is not a catch-all for related entities.

Drawing on the leading authority of *Tanning Research Laboratories Inc v O'Brien*, Justice Kelly explained that the prepositions "through" and "under" convey the specific notion of a "derivative cause of action." To fall within this definition, a third party must rely on a right or defense that is "vested in or exercisable by the party." This typically applies to assignees, liquidators, or trustees in bankruptcy who legally stand in the shoes of the original signatory. In this case, Janella was not claiming a right derived from Mr.

Pratt; it was asserting its own distinct claim for damages while Mr. Pratt remained the lessor. The Court found that Mr. Pratt had "failed to articulate a coherent or maintainable basis" for contending that Janella was effectively claiming through him.

The respondents attempted to preserve the arbitrator's jurisdiction by arguing theories of agency and estoppel. They contended that Mr. Pratt had entered into the 2019 Lease as an agent for Janella, thereby making Janella the true lessor, or alternatively, that TGF was estopped from denying Janella's status because they had paid rent to the trustee.

The Court dismissed these arguments as "sufficiently weak as to be not sustainable." It was undisputed that Mr. Pratt, not Janella, was the registered owner. Justice Kelly reasoned that "as Janella was not the owner of the Land, Mr. Pratt can have had no actual or ostensible authority to represent that Janella was 'the Lessor'." The lease explicitly defined the lessor as Mr. Pratt, and there were "no words contained in the 2019 Lease to the effect that Mr. Pratt entered the 2019 Lease as agent for and on behalf of Janella."

Similarly, the estoppel argument failed because the express terms of the written contract were "plainly inconsistent with, and contradict," the alleged assumption that the trustee was the lessor. The mere fact that TGF paid rent to Janella at Mr. Pratt's direction was not enough to override the written agreement. Mr. Pratt's own evidence admitted that he operated the business through Janella because he "considered the farming business to be mine … notwithstanding how it is legally held," rather than due to any mutual agreement with the lessee.

Critically, the judgment clarifies the standard of review a court must apply when an arbitrator's jurisdiction is challenged. The Court confirmed that the review is a hearing *de novo*, meaning the court looks at the jurisdiction question

afresh to ensure the arbitrator was correct. Justice Kelly held that the arbitrator's reliance on the "subject matter in controversy" was a fundamental error. By ignoring the strictures of privity, the arbitrator had strayed beyond his authority. The Court declared that "the doctrine of privity of contract applies and Janella as a stranger to the 2019 Lease cannot seek to recover damages by reason of its breach."

Consequently, the Court set aside the arbitrator's decision. Justice Kelly concluded that "curial intervention is necessary to prevent the arbitration from foundering by reason of the wrongful inclusion of the second respondent." The decision stands as a clear directive that the efficiency of arbitration cannot come at the expense of fundamental contractual principles. The position of the Court pursues that a trustee entity, no matter how closely related to the signatory or how deeply involved in the financial operations, cannot force its way into an arbitration without a clear legal basis found within the agreement itself.

This case serves as a cautionary tale for families and trustees managing complex asset holding structures where arbitration is the preferred method of dispute resolution. Often, families separate land ownership from operational risk for "legal and tax reasons," as Mr. Pratt admitted was his motivation. However, when a trustee entity like Janella is the operational engine incurring expenses, the legal documentation must explicitly reflect this role. Effective asset management requires that the entity bearing the financial risk is also the entity named in the arbitration agreement. If a trustee intends to enforce rights under a contract, it must ensure it is not merely a passive beneficiary of rent payments but an active, defined party within the arbitration agreement.

Furthermore, the judgment highlights the precise legal scaffolding required for a trustee to access arbitration provisions without being a primary signatory. To successfully argue that a trustee is claiming "through or under" a

signatory, there must be a clear legal mechanism, such as an assignment or a formalized agency agreement, that bridges the gap between the individual owner and the corporate trustee. The court emphasized that the prepositions “through” and “under” require a “derivative cause of action” that is “vested in or exercisable by the party.” Simply being a related entity or the “invoicing entity” does not create this legal bridge. Trustees must consider structuring their commercial relations so that the cause of action for financial loss resides with the signatory, or ensure the arbitration clause is broad enough to expressly include related entities. Without such foresight, a trustee remains a “stranger to the 2019 Lease,” unable to utilize the efficiency of arbitration to recover its losses.

Author: Mahmoud Abuwasel
Title: Partner – Disputes
Email: mabuwasel@waselandwasel.com
Profile:
https://waselandwasel.com/about/mahmoud-abuwasel/

Lawyers and consultants.
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com