

SAMPLE ANSWER

Fazzolari's Case

Instructions: download the following recent High Court decision: [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/HCA/2009/12.html?query=title\(R\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/HCA/2009/12.html?query=title(R)).

Preferably you should do your own case note on this case before you read this sample answer and the one with feedback given including track changes.

Sample Answer: Without Annotation

PART I: Case Summary

Correct Reported Citation:

R & R Fazzolari Pty Limited v Parramatta City Council (2009) 237 CLR 603

The facts of the case:

Parramatta City Council, on 1 June 2007, gave notices to the owners of land in a block in the Parramatta city centre, regarding the council's intent to acquire their land. The council's plan was to redevelop the block. The redevelopment was to be partaken under a Public Private Partnership between the Council and two companies, Grocon (Civic Place) Pty Ltd and Grocon Constructors Pty Ltd. The agreement between the Council and the companies was that the Council would transfer some of the land they intended to acquire to the companies for large financial payments, as well as other considerations.¹ Two owners of the land the Council proposed to acquire, R & R Fazzolari Pty Ltd and Mac's Pty Ltd, challenged the proposed acquisitions, citing them as being for the purpose of re-sale.²

Procedural History:

The case was originally presided over by Biscoe J in the Land and environment Court. Biscoe J ruled that the Council's intended acquisitions were unlawful and ordered an injunction. The Council then appealed to the Court of Appeal of New South Wales, which allowed the appeals and voided the previous declarations and orders of Biscoe J. The appellants were then given the right to appeal against the decisions of the Court of Appeal³ on the grounds of: The New South Wales Court of Appeal misinterpreted the meaning of "purpose of re-sale" under the LGA by believing it to require re-sale to be the main purpose when the Act intended that re-sale could be secondary purpose. The second ground of appeal was The New South Wales Court of Appeal erred by not characterizing the proposed eventual transfer of the acquired land, in return for money, as a proposed 're-sale' within the meaning of ss 188(1) of the LGA. Then the matter proceeded to the High Court of Australia.⁴

Legal Issues:

The first issue was in regards to whether the transfer of land in return for money would be classified as a "re-sale" of the appellants' land for the purposes of s 188(1).⁵ The second issue was whether the intended acquisition was for the purpose of re-sale of the land.⁶ Another issue was whether the proposed acquisition of the appellants' properties was valid under the Local Government Act 1993 (NSW) ("the LGA") s 188(2)(a), which raised the question of whether the appellants' properties adjoined or lay in the vicinity of other land to be acquired at the same time under the LGA for a purpose other than a purpose of re-sale.⁷

The ratio(s) of the case:

French J considered whether the transfer of the appellants' land to Grocon constituted a "sale."⁸ French J stated that rights, imposed by s 188 of the LGA should not be confined only to re-sales for money, as that interpretation would limit the meaning of "re-sale."⁹ On the question of whether the purpose of re-sale required to befit the restriction imposed by s 188(1) needs to be the sole, dominant or substantial purpose.¹⁰ French J took into

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consideration that the compulsory acquisition of land for re-sale will almost always be backed by a bigger public purpose and so it could not be a condition of the application of s 188(1) that the purpose of re-sale be the sole or the dominant purpose of acquisition. He believed that that a substantial purpose would be enough. French J also decided that the kind of purpose should depend on what the council plans to do with the land.¹¹

Obiter dictum in the case:

French J discussed that where a statute is capable of more than one construction, the construction that least interrupts private property rights will be chosen.¹² Thus, the constraint imposed by s 188 on the power conferred by s 186 should be read using to the ordinary meaning of the words in regard to their context and purpose and, in this case, respect for the rules regarding the construction of statutes affecting property rights. The consequence of this was that identification of land for proposed acquisition will focus on the use it is intended for rather than developmental objectives in connection with other areas of land.¹³

What did the court decide?

The final decision of the high court was in favour of Fazzolari and Mac. The High Court judges decided to restore the declarations that were made by Biscoe J. in the original hearing¹⁴ and that costs follow in the High Court as well as the courts below.¹⁵ Other orders included setting aside the orders of the Court of Appeal of the Supreme Court of New South Wales and removing paragraph 2 of the orders of the Land and Environment Court of New South Wales.¹⁶

PART II: Analysis of Judicial Reasoning

Biscoe J, the original judge ruled in favour of Fazzolari and Mac. The judge concluded that the decision of the Council to acquire the land was not made for the purpose of any of the functions covered by s 186(1) or s 186(2)(b) of the LGA. Biscoe J. believed that The Council's purpose for the land was re-sale within the meaning of s 188(1) of the LGA and that the appellants' properties did not adjoin or lie near land to be acquired for a purpose other than re-sale. Biscoe J. found that s 188(1) restrictions applied to the proposed acquisition.¹⁷

French J agreed with Biscoe J, the main principles and legislative restrictions that needed to be considered in the case included s 186 of the LGA which outlines the situations and purposes for which a Council can legally acquire land.¹⁸ Also, s 188(1) of the CLA identifies a class of acquisitions of land that a council cannot acquire without the approval of the owner of the land. Section 188(2)(a) providing an exception to the requirement of s 188(1) that the approval of the owner of "the land" is required when the purpose of the acquisition is re-sale.¹⁹ Though it was possible to view the re-sale of Fazzolari and Mac's land as small parts of a larger plan that did not involve re-sale²⁰ the steps which the development agreement stipulated, fit the profile of a "re-sale"

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- 1 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 1.
 - 2 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 2.
 - 3 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 4.
 - 4 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 29.
 - 5 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 46.
 - 6 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 51.
 - 7 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 22.
 - 8 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 48.
 - 9 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 49.
 - 10 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 52.
 - 11 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 55.
 - 12 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 43.
 - 13 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 45.
 - 14 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 118.
 - 15 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 117.
 - 16 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 118.
 - 17 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 22.
 - 18 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 93.
 - 19 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 115.
 - 20 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 96.

of the land.²¹ Another main consideration was presented by s 188(2)(a) of the CLA, in regards to whether the Fazzolari land and the Mac's land adjoined or lay in the vicinity of other land the Council intended to acquire at the same time under Pt 1 of Ch 8.²² It was decided in these cases that neither Darcy Street nor Church Street is land that would be acquired at the same time as the appellants' land under Pt 1 of Ch 8 of the LG Act.²³

Some of the relevant cases that were considered in this case were *Thompson v Randwick Corporation*, in which a council attempted to acquire more land than required, it was held not to be for the purpose of profit-making by sale of the land not required, and the acquisition was disallowed.²⁴ Another relevant case was *Minister for Public Works v Duggan*, in which a council intended to acquire land in excess of what it needed then resell the excess and use the profits to fund the proposed scheme. In its judgement the Court said the body should "be restrained from resuming more of the land so specified than is actually required for the particular work."²⁵ Both of these considered cases involved situations similar to the case being presided over by French J and the rulings and words of the Court were taken into consideration.

The other High Court judges Gummow, Hayne, Heydon and Kiefel JJ. all agreed with French J that the Fazzolari and Mac's land was being acquired with the intent of re-sale. The judges acknowledged that the Council did intend to acquire, at the same time as the appellants' land, the land now forming Darcy Street and Church Street, but that it did not fall under Pt 1 of Ch 8 of the LGA because of the intent to re-sell and hence was not allowable.²⁶ The judges saw this as sufficient enough reason to rule in favour of Fazzolari and Mac.

The impact of this High Court decision will be increased pressure on Council's and their purposes when attempting to acquire land. As acquiring more land than necessary has been used as a way of funding council projects, this case sets a precedent meaning that this pathway is no longer a legally viable option and they will have to seek alternative fund raising routes. This ruling gives more power to property owners, as the council requires their consent to acquire property for re-sale. All in all the significance of this ruling seems to be that Council's will be unable to acquire land as easily as they previously may have been able to as the process has become more stringent and strict.²⁷

21 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 97.

22 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 99.

23 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 113.

24 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 33.

25 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 35.

26 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 68, 69, 70.

27 *R & R Fazzolari Pty Limited v Parramatta City Council* (2009) 237 CLR 603 at 115.

Sample Answer – With Annotation *

PART I: Case Summary

Correct Reported Citation:

R & R Fazzolari Pty Limited v Parramatta City Council [2009] HCA 12 (Unreported, French CJ, Gummow, Hayne, Heydon and Kiefel JJ, 2 April 2009).

The facts of the case:

Parramatta City Council ('the Council'), on 1 June 2007, gave notices to the owners of land in a block in the Parramatta city centre, regarding the Council's intent to acquire their land. The Council's plan was to redevelop the block. The redevelopment was to be partaken under a Public Private Partnership between the Council and two companies, Grocon (Civic Place) Pty Ltd and Grocon Constructors Pty Ltd (together referred to as 'Grocon'). The agreement between the Council and Grocon was that the Council would transfer some of the land they intended to acquire to the companies for large financial payments, as well as other considerations.¹ Two owners of the land that the Council proposed to acquire, R & R Fazzolari Pty Ltd ('Fazzolari') and Mac's Pty Ltd ('Mac'), challenged the proposed acquisitions, citing them as being for the purpose of re-sale.²

Procedural History:

The case was originally presided over by Biscoe J in the Land and Environment Court. Biscoe J ruled that the Council's intended acquisitions were unlawful and ordered an injunction.

The Council appealed to the Court of Appeal of New South Wales, which allowed the appeals and voided the previous declarations and orders of Biscoe J.

The appellants were then given the right to appeal against the decisions of the Court of Appeal³ on the grounds of: The New South Wales Court of Appeal misinterpreted the meaning of 'purpose of re-sale' under the *Local Government Act 1993* (NSW) ('the LGA') by believing it to require re-sale to be the main purpose when the Act intended that re-sale could be a secondary purpose. The second ground of appeal was that the New South Wales Court of Appeal erred by not characterising the proposed eventual transfer of the acquired land, in return for money, as a proposed 're-sale' within the meaning of s 188(1) of the LGA. Then the matter proceeded to the High Court of Australia.⁴

Legal Issues:

The first issue was in regards to whether the transfer of land in return for money would be classified as a "re-sale" of the appellants' land for the purposes of s 188(1).⁵ The second issue was whether the intended acquisition was for the purpose of re-sale of the land.⁶ Another issue was whether the proposed acquisition of the appellants' properties was valid under s 188(2)(a) of the LGA, which raised the question of whether the appellants' properties adjoined or lay in the vicinity of other land to be acquired at the same time under the LGA for a purpose other than that of re-sale.⁷

¹ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 1

² R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 2

³ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 4

⁴ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 29

⁵ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 46

⁶ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 51

⁷ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 22

Comment [anon1]: Parties names should always be in italics

Comment [anon2]: See AGLC 2.1.1: 'where the case involves more than one action, only the first action should be cited'.

Comment [anon3]: See AGLC 2.10: Unreported Judgments

Comment [anon4]: Careful here with jargon - what is wrong with 'take place'?

Comment [anon5]: The error in the citation of this case is repeated throughout the footnotes.

Comment [anon6]: Is this part of the facts, or is it a legal issue?

Comment [anon7]: See how the heading for the 'Facts of the case' is inconsistent with this heading 'Procedural History'? Title Case is preferred for titles.

Comment [anon8]: This is an odd statement, because you have a right to appeal anyway, it is just that you might win or lose the appeal, in which case the previous decision is affirmed or reversed.

Comment [anon9]: This is poor grammar. You only use a capital after a full stop, not after a comma, semi colon or colon.

Comment [anon10]: We use single quotation marks, and save double quotation marks for a quote inside a quote. For example: The High Court stated that "There can be "invisible retrospectivity" where the legislature ..."

Comment [anon11]: Must always take care to define acronyms on their first use.

Comment [anon12]: Always make sure your language is set in Word to English (Australian) not the default English (American) to avoid American spelling popping up in your paper.

Comment [anon13]: In the footnote, see how the student has cited paragraphs as if they were pages? A page reference is just 28, while a paragraph reference is []. See AGLC 4.9.

Comment [anon14]: A neater way to structure this is to say 'There are three main issues in this case. First, ... Second, ... Third, ...'

Comment [anon15]: None of the footnotes has a full stop, as required under AGLC 1.1.3

* This answer was prepared before the CLR reference for this case was available.

The ratio(s) of the case:

French CJ considered whether the transfer of the appellants' land to Grocon constituted a 'sale'.⁸ French CJ stated that rights imposed by s 188 of the LGA should not be confined only to re-sales for money, as that interpretation would limit the meaning of "re-sale".⁹ On the question of whether the purpose of re-sale required to benefit the restriction imposed by s 188(1) needs to be the sole, dominant or substantial purpose.¹⁰ French CJ took into consideration that the compulsory acquisition of land for re-sale will almost always be backed by a bigger public purpose and so it could not be a condition of the application of s 188(1) that the purpose of re-sale be the sole or the dominant purpose of acquisition. He believed that that a substantial purpose would be enough. French J also decided that the kind of purpose should depend on what the relevant council plans to do with the land.¹¹

Comment [anon16]: Need to pay attention to detail and be sure if you are dealing with a Chief Justice (CJ), a judge (J) or an acting judge (AJ).

Comment [anon17]: Use plain English

Comment [anon18]: See here how if you are talking about councils in general you use lower case, but if it is the specific council in the case, it is the Council? We do the same thing with 'courts' or 'the Court'

Obiter dictum in the case:

French CJ discussed that where a statute is capable of more than one construction, the construction that least interrupts private property rights will be chosen.¹² Thus, the constraint imposed by s 188 on the power conferred by s 186 should be read using to the ordinary meaning of the words in regard to their context and purpose and, in this case, respect for the rules regarding the construction of statutes affecting property rights. The consequence of this was that identification of land for proposed acquisition will focus on its intended use rather than developmental objectives in connection with other areas of land.¹³

Comment [anon19]: clunky expression

What did the court decide?

The final decision of the High Court was in favour of Fazzolari and Mac. The High Court decided to restore the declarations that were made by Biscoe J. in the original hearing¹⁴ and ordered that costs follow in the High Court as well as the courts below.¹⁵ Other orders included setting aside the orders of the Court of Appeal of the Supreme Court of New South Wales and removing paragraph 2 of the orders of the Land and Environment Court of New South Wales.¹⁶

PART II: Analysis of Judicial Reasoning

Biscoe J, the original judge ruled in favour of Fazzolari and Mac. The judge concluded that the decision of the Council to acquire the land was not made for the purpose of any of the functions covered by s 186(1) or s 186(2)(b) of the LGA. Biscoe J. believed that The Council's purpose for the land was re-sale within the meaning of s 188(1) of the LGA and that the appellants' properties did not adjoin or lie near land

⁸ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 48

⁹ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 49

¹⁰ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 52

¹¹ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 55

¹² R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 43

¹³ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 45

¹⁴ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 118

¹⁵ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 117

¹⁶ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 118

to be acquired for a purpose other than re-sale. Biscoe J. found that s 188(1) restrictions applied to the proposed acquisition.¹⁷

French CJ agreed with Biscoe J, the main principles and legislative restrictions that needed to be considered in the case included s 186 of the LGA which outlines the situations and purposes for which a Council can legally acquire land.¹⁸ Also, s 188(1) of the LGA identifies a class of acquisitions of land that a council cannot acquire without the approval of the owner of the land. Section 188(2)(a) providing an exception to the requirement of s 188(1) that the approval of the owner of "the land" is required when the purpose of the acquisition is re-sale.¹⁹ Though it was possible to view the re-sale of Fazzolari and Mac's land as small parts of a larger plan that did not involve re-sale²⁰ the steps which the development agreement stipulated, fit the profile of a "re-sale" of the land.²¹ Another main consideration was presented by s 188(2)(a) of the LGA, in regards to whether Fazzolari's land and Mac's land adjoined or lay in the vicinity of other land the Council intended to acquire at the same time under Pt 1 of Ch 8.²² It was decided in these cases that neither Darcy Street nor Church Street is land that would be acquired at the same time as the appellants' land under Pt 1 of Ch 8 of the LGA.²³

Some of the relevant cases that were considered in this case were *Thompson v Randwick Corporation*, in which a council attempted to acquire more land than required, and it was held not to be for the purpose of profit-making by sale of the land not required, and the acquisition was disallowed.²⁴ Another relevant case was *Minister for Public Works v Duggan*, in which a council intended to acquire land in excess of what it needed then resell the excess and use the profits to fund the proposed scheme. In its judgment the Court said the body should 'be restrained from resuming more of the land so specified than is actually required for the particular work.'²⁵ Both of these considered cases involved situations similar to the case being presided over by French CJ and the rulings and words of the Court were taken into consideration.

The other High Court judges, Gummow, Hayne, Heydon and Kiefel JJ all agreed with French CJ that Fazzolari and Mac's land was being acquired with the intent of re-sale. The judges acknowledged that the Council did intend to acquire, at the same time as the appellants' land, the land now forming Darcy Street and Church Street, but that it did not fall under Pt 1 of Ch 8 of the LGA because of the intent to re-sell and hence was not allowable.²⁶ The judges saw this as sufficient enough reason to rule in favour of Fazzolari and Mac.

Comment [anon20]: The student needed to take care here because it felt like the analysis was focusing on the wrong case - this is the first instance decision, whereas the case the student is doing the case note on is a High Court, appellate decision. It would have been better to start this paragraph with 'French CJ agreed with the reasoning of the trial judge, Biscoe J, that ...'

Comment [anon21]: See how this is the wrong case? If it is a council, it is lower case, and if it is the Council, it is upper case.

Comment [anon22]: This was an extremely sloppy error on the part of the student. Proofing is important in law school!

Comment [anon23]: See how this is not a complete sentence? If you start something like that, you need a second part to the sentence. Otherwise it should just say 'Section 188(2)(a) provides an exception ...'

Comment [anon24]: Always remember to put the footnote after the punctuation and not before it

Comment [anon25]: When you define an acronym you must use that acronym consistently. It can be LG Act or LGA or 'the Act' - but it needs to be consistently applied.

Comment [anon26]: Clunky expression

Comment [anon27]: Many students muck up the apostrophe in its, it's and its'. Basic grammar is solely lacking in law students and is something that can be improved without a great deal of effort.

Comment [anon28]: We use no 'e' for a court judgment, only for exercising reason, for example 'It was an exercise in sound judgement to delay issuing the judgment'.

¹⁷ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 22

¹⁸ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 93

¹⁹ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 115

²⁰ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 96

²¹ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 97

²² R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 99

²³ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 113

²⁴ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 33

²⁵ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 35

²⁶ R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council [2009] HCA 12 at 68, 69, 70

The impact of this High Court decision will be increased pressure on Councils and their purposes when attempting to acquire land. As acquiring more land than necessary has been used as a way of funding council projects, this case sets a precedent meaning that this pathway is no longer a legally viable option and they will have to seek alternative fund raising routes. This ruling gives more power to property owners, as the council requires their consent to acquire property for re-sale. All in all the significance of this ruling seems to be that councils will be unable to acquire land as easily as they previously may have been able to as the process has become more stringent and strict.²⁷

Comment [anon29]: Another incorrect use of an apostrophe. Here an apostrophe would connote ownership, eg 'John's bike', when it is meaning to connote plurality, ie 'pressure on councils to ...'

Comment [anon30]: Always take care with the word 'they'. Students overuse it terribly, eg 'They have to do something about this gap in the law'. Better to say who you are talking about than to say they.

Comment [anon31]: This is an overused expression by law students in conclusions. Better to say 'Overall,' or 'In essence,' or 'In conclusion,'.

Comment [anon32]: You are telling the story - either you think it is the significance or you don't!

Comment [anon33]: Quite ironically, not long after this decision legislation was passed to get around this decision! See if you can find it using your new-found legal research skills!

²⁷ *R & R Fazzolari Pty Limited v Parramatta City Council; Mac's Pty Limited v Parramatta City Council* [2009] HCA 12 at 115.