Error of Law

Introduction to Equity

Road Map

- 1. Correctly interpret the statute
- 2. Correctly apply it to the facts

Both CL and ADJR

- CL
  - 1. Error of law
  - 2. On the record
  - Was limited to the record - *Craig*
- ADJR s(1)(f) -
  - Error of law – evidence of the decision
  - Not limited to the record

Error of Law and Error of Fact

- Error of law = statutory meaning of a phrase
- Error of fact = ordinary meaning of a word or 'non-technical meaning' of a word (Agfa-Gavaert)

Azzopardi Case – Azzopardi v Tas UEB Industries Ltd [1985] 4 NSWLR 129

- Facts:
  - A applied for workers comp – injured while travelling to work
  - Appeal to SC on a point of law – show there was an error of law not an error of fact
- **Errors of Law:**
  - 1. Findings of primary fact can be EOL
    - E.g. error in defining what the relevant facts are that must be found
    - Normally factual findings can't be reviewed unless no evidence to support them at all
  - 2. Identifying the relevant point of law
    - E.g. whether injury occurred when driving to work counts as error for purposes of statute.
  - 3. Applying the law to the facts
    - E.g misapplication can be error of law

Errors of Fact – unsound reasoning not an error of law but fact

- *Collector of Customs v Pozzolanic Enterprises Pty Ltd (1993) 43 FCR 280*

- Customs act allowed for diesel fuel rebate if used in **<u>"primary production"</u>**
- P claimed for fuel to operate equipment to unload stock feed from truck to silo
- AAT said it did not fall into statutory definition
- Fed Court Held: primary production raised question of law
- **Held: 5 propositions to establish question of law or fact – <u>KNOW FOR EXAM</u>**

1. **If a statutory phrase is to be given its ordinary meaning or technical meaning is a question of law**
   - E.g. defined in statutory definitions or case law
2. **The ordinary meaning of a word or its non-legal technical meaning is a question of fact**
   - Not defined in statute or case law
3. **The meaning of a technical legal term is a question of law**
4. **The construction of an established term is a question of law**
5. **The question whether the facts as fully found fall within the statutory provision is a question of law**
   - Here the phrase 'connected with the rearing of live-stock' involved a value judgment about the range of activities involved and that was a question of law.
   - Here the fuel used to distribute and deliver stockfeed not sufficiently connected with the rearing of livestock.
   - Cf if used fuel to drive a tractor and trailer and actually feed the stock from feed in the trailer.

- *Collector of Customs v Agfa-Gavaert (1996) 186 CLR 389*
  - Customs act – A-G important German corporation that did photography
  - Exempted from duty imported paper if it was for a ''silver dye bleach reversal process'
  - AAT – held it did not fall within the phrase
  - HC Held:
    - meaning of statutory phrase is point of law
    - Agreed with decision of AAT
    - Held general rules in Pozzolanic had limits
    - 1. When statutory phrase – look at phrase as a whole and not individual words in isolation
    - "special dye bleach" – treated was trade term but it was not 'silver bleach reversal process' – depends on the terminology
    - Did not fit in phrase therefore was not exempt