DELIVERED: 17 December 1992

HEARING DATE: 22 July 1992

PARTIES: MORRIS & ANOR v WARDLEY AUSTRALIA PROPERTY MANAGEMENT LIMITED

JUDGMENT OF: Kirby P; Mahoney JA; Meagher JA

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Meagher JA

The granting or refusing of an adjournment is about the most discretionary order a judge can make. It can never be successfully challenged unless it is manifestly wrong, or vitiated by obvious error. It is fundamental that an appellate court should remind itself of this fact. Otherwise, it will generate such lamentable decisions as Raybos Australia Pty Limited v Tectran Corporation Pty Limited [1986] 6 NSWLR 674.

Kirby P

I do not, however, agree with Meagher JA's remarks about *Raybos Australia Limited and Anor v Tectran Corporation Pty Limited and Ors [No 4]* (1986) 6 NSWLR 674 (CA). If in every case which counsel lost in a hard-fought contest at the Bar, he nurtured and preserved his grievance to bring it forth years later in a judgment, following appointment to the Bench, our law books would be full of the saved-up vituperation from which they are now, generally, happily free. The decision in *Raybos* was one in which I was joined by Priestley JA and that distinguished late member of this Court, Glass JA. It was a unanimous opinion of the Court. It was given in special circumstances for reasons explained in the report. It must be left to others to determine whether it is the decision in *Raybos* which is "lamentable" (as Meagher JA asserts) or the comment upon it.