

Court hands down judgment in appeal relating to the DomaCom Fund

Highlights

- The Full Federal Court has handed down judgment in the appeal by Aussiegolfa Pty Ltd (in its capacity as trustee of the Benson Family Superannuation Fund (**BFSF**)).
- The Court held that the primary judge was incorrect in concluding that the leasing of the residential property held by the sub-fund to a child of a member of the BFSF was a breach of the ‘sole purpose test’.
- The Court held that the primary judge was correct to conclude that the units held by Aussiegolfa Pty Ltd in a sub-fund of the DomaCom Fund constituted an investment in a ‘related trust’ of the BFSF.

DomaCom CEO, Arthur Naoumidis, said: “DomaCom is very pleased to have the court confirm that it was not a breach of the Sole Purpose Test when a related party of the BFSF rented a property held by the DomaCom Burwood sub-fund. We believe that this finding, on its own, represents a milestone for the SMSF industry.”

“In relation to the related trust determination, we are reviewing the comprehensive judgment with our lawyers and will make a further announcement about the effect, if any, of the decision on the DomaCom Fund. The DomaCom Fund disclosure documents have been amended significantly since the Burwood sub-fund was created in 2015. Accordingly we will analyse the effects of the judgment on sub-funds created using the current version of the DomaCom Fund constitution and disclosure documents. If our analysis determines that it is necessary, we will consider amending our constitution and disclosure documents to address this issue with respect to future sub-funds.”

ENDS

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About DomaCom

DomaCom Australia Limited ACN 153 951 770 launched Australia's first online platform (registered as a managed investment scheme) to provide a property investment solution for the SMSF market and other long term investors through the fractional acquisition of units in a unique trust structure that enables investors to gain exposure to the property they select. Residential and commercial property Australia wide can be accessed in this fund, sourced from a variety of vendors and developers.

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