

Fox v Percy (2003) 214 CLR 118

<https://lawcasesummaries.com/knowledge-base/fox-v-percy-2003-214-clr-118/>

Quotes

"Over more than a century, this Court, and courts like it, have given instruction on how to resolve the dichotomy between the foregoing appellate obligations and appellate restraint. From time to time, by reference to considerations particular to each case, different emphasis appears in such reasons. However, the mere fact that a trial judge necessarily reached a conclusion favouring the witnesses of one party over those of another does not, and cannot, prevent the performance by a court of appeal of the functions imposed on it by statute. In particular cases incontrovertible facts or uncontested testimony will demonstrate that the trial judge's conclusions are erroneous, even when they appear to be, or are stated to be, based on credibility findings."

(Gleeson CJ, Gummow and Kirby JJ at paragraph [28])

Full Text

The full text is available here: <http://eresources.hcourt.gov.au/showCase/2003/HCA/22>