HIGH COURT OF AUSTRALIA

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Details of Filing

File Number:	B60/2023
File Title:	Mallonland Pty Ltd ACN 051 136 291 & Anor v. Advanta See
Registry:	Brisbane
Document filed:	Form 27B - Appellant's chronology
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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

ON APPEAL FROM THE COURT OF APPEAL OF THE
SUPREME COURT OF QUEENSLAND

BETWEEN: **MALLONLAND PTY LTD ACN 051 136 291**

First Appellant

ME & JL NITSCHKE PTY LTD ACN 074 520 228

Second Appellant

and

ADVANTA SEEDS PTY LTD ACN 010 933 061

Respondent

APPELLANTS' CHRONOLOGY

Part I: Certification

I certify this chronology is in a form suitable for publication on the internet.

Part II: Chronology

Date	Event
2009	Advanta knew that that sorghum off-types had been identified in three varieties of commercial grain sorghum it produced (MR Buster, MR Striker and MR43) and that a sorghum off-type with a shattering characteristic would be more difficult to control or eradicate if it germinated, matured and dropped seed, and as a result, a farmer was likely to have greater difficulty in controlling a sorghum off-type with a shattering characteristic in a sorghum crop (AJ [24]; CAB 120).
2010	Advanta knew or ought to have known that if "roguing" was not used then there was a risk of harm to farmers who purchased and planted MR43 seed, and that in the absence of reasonable care being taken in and about production of the seed, the seed might contain an off-type with a shattering characteristic (AJ [25]; CAB 120). Advanta knew that contamination of MR43 seed by an off-type sorghum with shattering characteristics may cause damage to farmers or to the owners of land upon which the seed was planted. Advanta knew that the production of grain sorghum seed required production processes to be implemented in order to: minimise the risk of contamination of the seed by off-types; identify off-type contamination; and, as far as reasonably practicable, prevent the supply of contaminated seed (AJ [22]–[23]; CAB 119).

Early 2010	Advanta failed to exercise a reasonable standard of care in roguing the early 2010 Cavaso Farming MR43 seed production crop (J [353]; CAB 65).
Winter 2010	Advanta failed to act with reasonable care in failing to conduct a commercial grow out of the contaminated MR43 seed before it was sent to market and sold for the 2010/2011 summer season (J [367]; CAB 67).
September–December 2010	The farmers (including the Appellants) purchased contaminated MR43 seed from distributors and planted the seed (J [15]; J [32]–[33]; J [411]; CAB 14, 16, 73).
24 April 2011	Six years before commencement of proceedings.
After 24 April 2011	The shattercane contamination was not ascertained or ascertainable by the farmers (including the Appellants) until after 24 April 2011 (AJ [268]–[269]; CAB 172–173). The impact upon the cash flows of the Appellants did not occur until farming practices had to alter to account for the shattercane, which did not occur until after 24 April 2011 (AJ [268]–[269]; CAB 172–173).
Summer of 2011 / 2012 (late 2011, early 2012)	The first of the cash flow losses, being increased operating expenses associated with the eradication of the shattercane, were incurred by the Appellants (being the first summer after the contaminated seed was first planted) (J [495]; CAB 87).
24 April 2017	Proceedings commenced in Supreme Court of Queensland
16–31 March 2020	Trial before Jackson J (CAB 5)
9 April 2021	Judgment given at first instance (CAB 5)
19–20 October 2021	Hearing of appeal before Morrison and Bond JJA and Williams J (CAB 114)

28 February 2023	Judgment given on appeal (CAB 114)
13 October 2023	Special leave to appeal granted by Kiefel CJ and Steward J (CAB 194)

Dated: 1 December 2023

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