

FLORIDA HOTELS PTY LTD V MAYO [1965] 113 CLR 588

High Court of Australia – 25 May 1965

FACTS

Florida Hotels decided to construct a pool at the rear of one of its hotels. Mayo was retained as the architect to design the pool.

Florida Hotels did not engage a builder but instead engaged tradesmen and laborers to carry out the work. Mayo did some supervising of the works.

Cooks, an employee of Florida Hotels, was injured when a concrete slab fractured. The fracture was caused by the faulty placement of reinforcing mesh.

ISSUE

Did Mayo owe a duty of care to Florida Hotels and Cook to design the pool and supervise the construction of the pool?

FINDING

It was clear that Mayo owed a duty of care to properly supervise the construction of the pool. The evidence showed that Mayo had failed to properly supervise the construction of the pool.

QUOTE

“These obligations were no less applicable because the appellant had not contracted with a builder to do the work of extensions to the hotel. Apart from the consequences of the breach of such an obligation, in my opinion, there is no significant difference in the nature of the obligation of the architect to supervise in either case. Of course, in deciding what in a particular case that obligation required him to do, it may well be that the fact that the building owner directly employed tradesmen and laborers to carry out the work increases the area of what it would be reasonable for the architect to do in performance of his obligation. But, in my opinion, in neither case may the architect merely wait to be informed that the work is or will be ready for his inspection”.

But in my opinion, the possibility of liability of the appellant to its workman flowing from the consequences of lack of supervision of work of the kind in question must be taken to have been fairly within the contemplation of the parties.

His Honor, the trial judge, found the lack of supervision to be the cause of the collapse of the slab and the removal of the form work but the occasion for it; because of the inherent weakness for want of proper reinforcement, it would have fallen down whenever the form work was removed; and with this conclusion I respectfully agree.

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Of course, vis-a-vis the plaintiff the premature removal of the form work was negligent of the part of the appellant.

But this would not prevent the appellant recovering from the respondents for their breach of contract simply because they are therefore joint tortfeasors with the appellant. It would be otherwise if the effect of the respondent's breach of their obligation to the appellant had become spent and no longer casually connected with the plaintiff's injury. But that is not this case.

The intervention of the appellant's act in removing the timber, though it occasioned the injury to the plaintiff, will not avail the respondents.

IMPACT

When supervising contract works the contract manager needs to be certain about their responsibilities. If the contract manager is supervising the works, they need to stay aware of all relevant issues to ensure that supervision is adequate.

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