

SHADDOCK V PARRAMATTA CITY COUNCIL (1981) ALR 385

High Court of Australia - 28 October 1981

FACTS

Shaddock wanted to purchase property located in the area governed by the council. Shaddock's solicitor both orally and by a written standard form, asked the council whether the property was the subject of any proposals to widen roads.

The council carelessly said there were no proposals when in fact there were such proposals. The value of the property was reduced by the proposal.

The appellants claimed that they had sustained loss by reason of their reliance on erroneous information supplied to them innocently but negligently by the respondent. The trial judge found that the respondent had been careless but that it owed no relevant duty of care to the appellants. This decision was affirmed by the Court of Appeal on appeal to the High Court.

ISSUE

The court had to decide the circumstances in which a local government body could be held liable for information it supplied to the general public.

FINDING

A person comes under a duty of care in relation to the provision of advice or information if he carries on a business or profession and in the course of it provides advice or information of a kind which calls for skill and competence or he otherwise professes to possess skill and competence and he provides advice or information when he knows or ought to know that the recipient intends to act or rely on it.

Liability for negligent mis-statement is not confined to those who carry on, or profess to carry on a profession, business or occupation involving the possession of skill and competence.

QUOTE

Mason J said:

"In the present case we are not concerned with advice given by a life assurance company in relation to an investment in which it had special knowledge, but with information furnished by a local authority, in relation to proposed road-widening proposals. There is no ground for confining the liability to those who engage in a business activity and for excluding those who provide negligent advice or information in the course of discharging a government or administrative responsibility.

The citizen is just as likely to rely on the accuracy of advice or information given to him by a government department, a statutory authority or a local authority as he is to act on similar advice or information given by a person who carries on a business. And there is no persuasive reason for saying that

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the citizen who sustains damage as a result of information negligently given by a government department or authority has no remedy, although the citizen who sustains similar damage as a result of information negligently given by an investment adviser has a remedy”

“The specialised nature of the information, the importance which it has to an owner or intending purchaser and the fact that it concerns what the authority proposes to do in the exercise of its public functions and powers, form a solid base for saying that when the information (or advice) is sought on a serious matter, in such circumstances that the authority realises or ought to realise, that the inquirer intends to rely act upon it, a duty of care arises in relation to the provision of the information and advice”.

IMPACT

This case establishes that liability for negligent mis-statement will arise where the government authority ought to have known that the person seeking the information would rely on that information and could suffer loss if the information was incorrect.

Government bodies which provide information for tender submissions must make sure that all such information is as accurate s possible. Failure to do so in the absence of an appropriate disclaimer could lead to liability for negligent mis-statement. This duty to ensure that information is accurate extends to all dealings which governmental authorities have with the public.

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