

SHAW V DIRECTOR OF HOUSING [2000] TASSC 115

Supreme Court of Tasmania - 22 August 2000

FACTS

Shaw bought land and proposed to construct a shopping centre on that land near the public housing suburb of Rocherlea. The land was on the only access road to the suburb. However, the Director of Housing planned to develop a nearby site as a shopping centre for Rocherlea and decided that it would be inappropriate to have two shopping centres.

An officer from the Director's office told Shaw's parents that the Director intended to double the size of Rocherlea within 3 to 5 years and that the best site for the shopping centre would be on land owned by the Director as that site would be in the centre of the expanded suburb. The parents were also told that Director's site was on a road which would be extended to become another access road to the suburb.

Shaw relied on the representations made by the officer and sold his land and purchased the Director's land instead. Shaw was also contractually obliged to develop a shopping centre on the site.

However, the Director later decided not to expand Rocherlea and the second access road was not built. Shaw developed the shopping centre but sold the land at a loss. Shaw sued the Director of Housing for Negligence.

ISSUES

Did the Director owe a duty of care to Shaw to avoid providing negligent advice?

Had the Director breached any duty of care owed to Shaw and had the breach caused Shaw to suffer any loss?

FINDINGS

The Director knew that Shaw would rely on the advice given about the future of Rocherlea and it was reasonably foreseeable that Shaw would rely on the advice and would suffer loss if the advice was incorrect. Therefore, the Director owed a duty of care to Shaw.

The Director carelessly provided advice to Shaw without making sure it was correct. Shaw relied upon the advice and purchased the Director's land and was forced to build the shopping centre at a loss.

QUOTE

Underwood J said:

"Clearly there was a breach of the duty of care. Mr L was a senior planning officer of the defendant. There is no evidence that he made any enquiry prior to speaking to Mr and Mrs Shaw with respect to the defendant's then current plans for the future development of Rocherlea."

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Has appropriate enquiry been made before the representations were uttered, it would have become apparent that the defendant did not have the intentions attributed to it, nor did any other authority have an intention to construct a link road to Ravenswood.”

IMPACT

Government officials should be careful about providing advice to the public if there is a chance that the advice would be relied upon and that the person receiving the advice will suffer loss if the advice is incorrect.

If advice is provided to the public that advice should be recorded in writing to ensure that the contents of the advice can be recalled if necessary.

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