14th September, 1987 147 87/50.

In the Royal Court of Jersey

Before: Mr. V.A. Tomes, Deputy Bailiff
Jurat the Hon. J.A.G. Coutanche
Jurat P.G. Baker

Between: Stephen Lenfestey Duquemin and Susan Margaret McLean — Plaintiffs

And: David Owen Reynolds — Defendant

Advocate G. Le V. Fiott for the Plaintiffs
Advocate J.C.K.H. Valpy for the Defendant

The plaintiffs are the joint owners of the private dwelling-house situate and being No. 105, Rouge Bouillon, in the Parish of St. Helier (the property), which they purchased by contract passed before the Royal Court on the 30th April, 1982.

It is necessary for us to recite certain steps that were taken prior to the completion of that purchase. In or about December, 1981, the plaintiffs had learned that the property was for sale; had made enquiries at the Estate Agents; had viewed the property; had formed a first impression that the property was suitable for purchase; had obtained a report from timber preservation specialists; and had gone through the process of making a formal application to the States of Jersey Housing Committee for the grant of a loan under the "Supplementary Loans Scheme", which is available under the Building Loans (Jersey) Law, 1950, as amended (States' loan).

On the 26th January, 1982, Mr. Johnathon Bruce Hackett, Loans Officer in the Housing Department, commissioned a survey report on the property from David O. Reynolds and Associates, the defendant's firm, in the following terms:-

"Dear Mr. Reynolds,

For States' Loan purposes it will be necessary to have a survey carried out on:- 105, Rouge Bouillon, St. Helier, under the Supplementary Scheme.

Please visit and submit your report, together with your fee account, to the Housing Office as per standing arrangement.

Vendor: Archdeacon Daunton-Fear Tel.No. 32833 Keys

Agents: F. Le Gallais & Sons Tel.No. 30202 Keys

Approved purchase price: £46,500 Loan Sought £37,200

Yours sincerely"

The defendant, who is an Incorporated Building Surveyor, practising as "David O. Reynolds and Associates", caused Mr. Bois, his employee, to inspect the property and prepare a report, dated 3rd February, 1982, entitled "A Report upon the general condition of the property....for States of Jersey Housing Department". The defendant signed the report and accepted full responsibility for it.

Because this action was, in the event and by consent, restricted to matters concerning the roofs of the property, we recite here the following relevant extracts of the report:-

"Roof Void

Access to the north roof void was gained via a minimal trap set into the soffit of the corridor area. The main roof void does not appear to be readily accessible and the general condition of this latter area is therefore assumed from observation of external finishes.

The north roof was mono pitched to face west, constructed of common rafters and overlaid by battens and slates. Insulation was laid between floor joists. The

north party wall was of random stone and the south wall which divides this area from the main roof void was constructed of brickwork. Whilst the majority of the roof structure appears to be in reasonably sound condition tests made to timber trimmer sections adjacent to the north party chimney stack indicated seriously high levels of moisture and a number of these comparitively minor timber components would appear to be rotting. The above defects and the assumed general condition of the main roof structure are discussed in greater detail under a later heading.

"Externally

General

The comments that follow are based upon what could be seen of the various external elements from ground level and from various vantage points; a detailed inspection would require scaffold or other alternative means of access.

"Roof Coverings

The roof of the main house was pitched to face north and south, that covering the north extension being pitched to face west; the majority of areas appeared to be covered with natural slate though this was partially obscured by over painted assumed plastic applications in a number of areas. A corrogated plastic roof-light covering was set in the east part of the north facing roof slope. It should be appreciated that the majority of central and northern areas were obscured from view and that all areas could either not be inspected directly or inspected only from distant vantage points. It should be further appreciated that the main roof structure was inaccessible. Slight

bowing was noted to the majority of the main roof, this being assumed to be attributable to slight historic settlement, the shape and extent of flashings to the east and west chimney stacks extending into the assumed line of settlement, which appears to demonstrate no significant increase in recent years.

Whilst extensive works of maintainance would appear to have been carried out to roof edges and to a number of chimney stacks a minor number of slates to the south facing roof slope would appear to be deflected and may have slipped. Painted applications to the north facing roof slope would appear to be flaking and the current condition of these finishes serves to mask and confuse the possible deflection of slates and flashings adjacent to the roof light.

With regards to damp and deteriorating timber sections noted within the north roof void, edges of the roof finish adjacent to the north party stack would appear to be in slight disarray and the early inspection and maintainance of this immediate area is recommneded. It was noted that whilst parts of the chimney stacks show evidence of repair in recent years, isolated bricks were eroded and cement cappings, particularly to the upper edge of the south east chimney stack, were cracked through.

Whilst roof finishes are currently assumed to be generally servicable, we would recommend that early attention is given to a programme of general inspection and to the making good of any detached or deflected slates and flashings, and to the making good of pointing and cappings

to chimney stacks, in order to inhibit moisture ingress and alleviate the further deterioration of internal components.

"Observations

Although defects noted during the course of our inspection are summarised in the text, we list below for ease of reference certain factors which we feel should be specifically drawn to your attention.

"Roof Void

1. Prevalence of dampness and slight decay to timber components adjacent to chimney stack in northern area.

2. Lack of access to main roof void; relative integrity assumed from external observations.

"Externally

Roof Coverings

8. General condition; early inspection of edges and possible making good.

"Conclusions

Bearing in mind the above remarks and on evidence found during the course of our inspection, we consider the property to be in average condition and in generally fair decorative order when compared with other properties of similar construction and vintage that we have inspected elsewhere in the Island.

As a general observation, it should be noted that whilst parts of the property would appear to have been affected by historic settlement, we are of the considered opinion

that the building is currently structurally sound and is basically stable.

Whilst parts of the property would appear to be affected by slight rising dampness, this may be considered to be no greater than that which might be reasonably anticipated and tolerated in a building of this type; a prudent house owner may wish to alleviate the effects of such dampness by the increased use of internal fresh air ventilation and by such works as may be economically practicable, to increase ventilation to the under floor areas."

In a letter to the Housing Department, also dated 3rd February, 1982, Messrs. David O. Reynolds and Associates said that: "We do not believe that any of our comments in the "Observations" section of the report will require urgent or immediate attention; we envisage that items so noted would be attended to by a prudent house owner during the normal course of maintenance. We would recommend that timber preservation specialists are employed to ascertain as far as is reasonably possible, the nature and full extent both of woodworm infestation and of isolated areas of decay to timber work".

Neither the existence of that letter nor the contents of it were known to the plaintiffs until after they had completed the purchase of the property.

The Housing Department had made it clear to the plaintiffs (and for convenience, we use the term "plaintiffs" whether only the first named plaintiff or both were involved) that whether or not the States' loan would be forthcoming would depend on the surveyor's report. They were both looking forward to seeing the report in order to know their fate. They kept in touch by telephone and, as soon as the report had arrived they attended at the Housing Department and looked at the report or part of it; it was "looking good".

There is some doubt as to when the plaintiffs were shown the whole of the report. In the Housing Department's file was a copy of only pages 12, 13 and 14, stapled together, and page 14 is endorsed thus: "We declare that we have read and understand the Surveyor's Report on No. 105, Rouge Bouillon and we further declare that we are confident that we are able to rectify such defects as are apparent now or likely to occur in the future". The endorsement is signed by both plaintiffs and is dated "18.2.82". It is to be noted that the declaration is not limited and appears to refer to the whole report. Moreover, as we have said, when the report had arrived at the Housing Department, the plaintiffs attended and looked at the report and it was "looking good". Mr. Duquemin was definite that he did have a copy of the report before he committed himself to purchase and he would not have purchased if the survey results had been bad. He could not recall when the three pages had been handed to him but accepted that he had received the full report after the three pages. The only reference to the roofs on those three pages is at page 12: "Roof Coverings. 8. General condition; early inspection of edges and making good". Mr. Connew said that whilst it was not standard practice to give a copy of survey reports to loan applicants he was not surprised that the Department did give a copy to the plaintiffs and that, probably, what was done was that the report was kept by the plaintiffs and the summary (the three pages) returned and kept on file. Mr. Hackett said that on occasion the Department could part with both copies although they tried to hold the original, and that he had heard of the survey report being 'sold on' on some occasions; he also said that in the case of a basic States' loan - where there was only the original report in letter form - the Department would photocopy it and likewise obtain a declaration; and where a supplementary loan was concerned - and two copies were provided - the Department would hand over the second copy .

The Court is satisfied, on the balance of probabilities, that the Plaintiffs had read the whole report at an early stage and came into physical possession of a copy before they committed themselves to purchase the property.

Timber preservation specialists, as we have said, had been employed to prepare a report on the question of woodworm infestation and decay to timber work.

On the 26th February, 1982, Mr. Peter Connew, the Law and Loans Manager in the Housing Department, wrote to the Plaintiffs informing them that the Housing Committee had, in principle, agreed to lend £37,000 towards the purchase and repair of the property, but as certain remedial work was in need of attention, the Committee required written assurance that the works, as per attached schedule, would be carried out within three months of passing contract. The schedule contained but one item, which was to carry out the works recommended in the timber reports and obtain a twenty year guarantee. There was no reference whatever to the roofs of the property which, having regard to the letter of the 3rd February, 1982, is hardly surprising.

By preliminary agreement of sale and purchase dated the 10th March, 1982, the plaintiffs agreed to purchase the property for a consideration of £46,500 and, as we have said, the purchase was completed by contract passed before the Royal Court on the 30th April, 1982.

The plaintiffs moved into the property some two months after passing contract. They had spent the whole of their savings on the difference between the States' loan and the total of the purchase price, legal fees and stamp duty. Before moving-in they cleaned out the property to make it ready for habitation. They had virtually no money and all they could have done to the property was to use their own labours on minor works.

Mr. Duquemin told us that some two months after having moved in he went up onto the roof to have a look at it, which he felt a prudent householder would do. He obtained a ladder, and had a look at the rear wing roof. He saw that a large number of slates were slipping or had slipped. He attempted to put some back but when he pushed one slate back into position the next one

would move. He was alarmed and consulted several contractors and all agreed that the roof required complete re-covering. The nails had started to rot and re-covering was the only solution. In 1983, he obtained quotations and accepted that of Mr. Stuart Riley. Mr. Riley advised that the remainder of the roofs also required re-covering. The plaintiffs could not afford it. Some £4,500 needed to be spent. The plaintiffs were very shocked and worried. They looked again at the survey report and started to realise that they had been misled about the roofs. They had believed that any defects could be remedied by routine maintenance but were now advised that complete re-covering was the only solution.

Mr. Stuart Riley, a roofing contractor of some twelve years' experience and self-employed during the last seven or eight years, confirmed that in October, 1983, he had been employed by the plaintiffs to strip-off and re-cover the rear wing roof. The work had cost £1,020. He had found that roof to be in bad condition, the nails were rotting, rain water had got to the battens and they were rotten. Slates had slipped or fallen out or moved to one side. To repair the roof was not practicable; the slates could not have been nailed back on because the battens were completely gone; it would have been necessary to re-cover some three-quarters of that roof in any event; and repair work would have cost more than a new roof.

Because it was necessary to construct a "valley" between the rear wing roof and the main rear roof, Mr. Riley had inspected the rear main roof. He had recommended to the plaintiffs that that roof also should be re-covered. A roof coating had been applied to prolong its life but this had peeled, allowing water to penetrate and rot both nails and battens. There were cracked slates. Mr. Riley carried out some repairs. He also replaced some slates on the front main roof where they had fallen out altogether. His advice to the plaintiffs had been to have the whole of the roofs re-done but the plaintiffs had declined at that time. It was not really possible to do a good job of "making good". Nevertheless it was possible to make good to last between one and four or five

years depending on weather conditions, but, in his opinion, total re-covering would be necessary in the early near future.

Mr. John Lord Lyon F.C.S.I., F.F.S., A.C.I. Arb., an expert witness called by the plaintiffs, was first consulted by them on the 27th September, 1983. He examined the roofs in November, 1983, by which time the rear wing roof had been re-covered by Mr. Riley. On the South or front elevation of the main house roof he saw slipped, broken and cracked slates; in some areas they had been pushed back in the course of repair work; the slopes from the chimney stacks were "out of level". On the rear main roof considerable areas had received an application of a liquid product which had peeled. There was "bowing" in the roof structure timbers which can cause deflection of the roof covering. There were cracked and broken slates. What Mr. Lyon saw in 1983 would have painted a different picture from that painted by the defendant's survey report. What he saw required more than "making good" - the roofs were out of alignment, slipped, decayed and part covered by plastic product.

Mr. Ronald Wilde was called as an expert witness by the defendant. He is a Fellow of the Royal Institution of Chartered Surveyors and is both eminent and very experienced in his profession. However, his evidence was mainly directed towards the interpretation and quality of the defendant's survey report. Nevertheless, on the basis of the photographs taken by Mr. Lyon, he expressed the opinion that it was sufficient to advise further inspection and to say that "you need to repair this roof". The roofs were not in a dire state and probably average for the type, age and condition of the property.

Subsequently, the plaintiffs discovered that Mr. Peter Leslie Bagnall, a self-employed roofing contractor in Jersey for some twenty-one years, had inspected the roofs in 1981 for the previous owner and he was called to give evidence. An estimate for the repair of the rear wing roof had been requested. The roof was not serviceable, it was letting in water, there were broken slates and many slipping. Whilst he could have patched the roof, he would not have

guaranteed it; he recommended stripping off and re-slating. Making good could only be a temporary job; there was no point in it. Mr. Bagnall also looked at the other roofs. The rear main roof was not in any better condition, in particular the lower slope or bottom section was the worse, and, in his opinion, the rear main roof needed stripping off and re-slating. Finally, he looked at the front main roof but neither from a ladder nor with binoculars. Whilst it was in a slightly better condition than the rear roofs, if it had been his property, Mr. Bagnall would have re-roofed it; repair would not have provided a satisfactory job.

The roofs of the main house were re-covered (re-battened and slated) by Mark Amy Limited during 1985.

Nature of Survey and Report

There was some confusion as to the precise nature and extent of the survey. A survey was commissioned, not a mortgage valuation. The report was on the general condition of the property. Mr. Lyon conceded that a report on the general condition of the property differs from a structural survey but pointed out that the report did go through the whole of the property and contained both observations and conclusions. Mr. Connew said that it was not meant to be a valuation but was a professional report on the structure of the property and recommendations as to any urgent work to be carried out or work to be done sooner rather than later. Mr. Connew also said that it was a purely structural survey; the question of price was dealt with under the Housing Regulations. The Department could act on the report as it saw fit; the Department did not require advice as to the security for the proposed loan; they depended on their own officers for that. Mr. Hackett looked upon the reports as "inspection reports" to help the Department's officers to decide whether or not to grant the States' loan, to decide that there was sufficient security and to ensure that the borrower would have sufficient means to fund the mortgage. Mr. Bois said that 'survey' was the wrong word and that

'inspection' was the true word. The defendant said that for the purpose of the inspection one had to go back to his original conversation with the Housing Officer when the Officer said that he would prefer a qualified person to walk round the property and check it and report on it.

The Court finds that the defendant was instructed to inspect the property and to give a general report and opinion but not to make a detailed survey.

Duty of Care

Before we go on to consider the quality of the survey and report we have first to decide whether the defendant owed any duty of care to the plaintiffs.

As we have said, a general report and opinion and not a detailed survey was commissioned. The report was on the general condition of the property. The plaintiffs were required to pay one half of the fee charged by the defendant to the Housing Department, as were all borrowers under the Supplementary Loans Scheme, but this fact was unknown to the Defendant although Mr. Bois said that he was aware of it. We have already found that the plaintiffs saw the report at an early stage and received a copy of the report. Obviously, an applicant under the Supplementary Loans Scheme would know that a survey report existed, since he contributed one half of the cost. What was probably done was that a copy of the report was handed over to and retained by the plaintiffs and that the copy summary, duly endorsed, was returned and retained on the Department's file. In the case of a Basic States Loan, only one copy of the survey report was supplied to the Department, because the report was in the form of a letter. However, in the case of a Supplementary States Loan two copies of the report were provided - whilst no reason was given for this it appears to us that it must have some significance. If the plaintiffs had not completed the purchase, the Housing Department would

probably have shown the report to the next buyer. The Housing Department wanted a survey report in order to identify any serious or abnormal risk, or those matters which they were not competent to see, and to have advice on works needed to be carried out; the officers in the Department would use the professional expertise of the surveyor in making their own assessment. It is clear that at the time of the purchase by the plaintiffs, the defendant had no idea that copies of the survey reports were being made available to borrowers. When he discovered it he took active and very strong steps to change the procedure, and changed it was. The defendant insisted that if the report had been prepared for the plaintiffs, the emphasis of the report would have been different and almost certainly the plaintiffs would have been taken through the report and the risks and potential risks would have been explained. In the belief of the defendant, the report was prepared in confidence only for the Housing Committee and both the defendant and Mr. Bois were most surprised that a copy or any part of the report was released. The defendant's client was the Housing Department and he did not consider that he had any duty to have in mind an unknown purchaser. The defendant claimed that all advice given in the report was intended to be given solely to the Housing Department. The report is entitled "for States of Jersey Housing Department" but contains no disclaimer or other exclusion clause to indicate that it is made for the sole benefit of the Housing Department or of the States Housing Committee and its advisers. The defendant did not know the identity of the plaintiffs and did not have in mind either the plaintiffs or any other purchaser.

The duty of care arising in tort is very succinctly stated in Charlesworth and Percy on Negligence, 7th Edition, paragraph 9-06 at page 513 where after referring to Hedley Byrne & Co Ltd -v- Heller and Partners Ltd (1964) A.C. 465 and to Anns -v- Merton London Borough Council (1978) A.C. 729, (1977) 2 All ER 492 the learned author went on:-

"Now, as a result of the foregoing matters, it has emerged clearly that the professional or other skilled person does, indeed, owe a duty of care both in

contract and in tort to his client, patient or customer and that the duty in tort extends widely to third parties, who have no contractual relationship with him at all".

In Anns -v- Merton London Borough Council (supra) Lord Wilberfore explained that the position has now been reached "that in order to establish that a duty of care arises in a particular situation, it is not necessary to bring the facts of that situation within those of previous situations in which a duty of care has been held to exist. Rather the question has to be approached in two stages. First, one has to ask whether, as between the alleged wrongdoer and the person who has suffered damage there is a sufficient relationship of proximity or neighbourhood such that, in the reasonable contemplation of the former, carelessness on his part may be likely to cause damage to the latter - in which case a prima facie duty of care arises. Secondly, if the first question is answered affirmatively, it is necessary to consider whether there are any considerations which ought to negative, or to reduce or limit the scope of the duty or the class of person to whom it is owed or the damages to which a breach of it may give rise".

This analysis, which is compelling because of its logic, has been followed in other countries: Takaro Properties Ltd. -v- Rouling (1978) 2 N.Z.L.R. 318, 323; Tuews -v- MacKenzie (1980) 109 D.L.R.(3d) 473, 489. And see e.g. Voli -v- Inglewood Shire Council (1963) A.L.R. 657 where the High Court of Australia held that an architect is liable to anyone whom he could reasonably have expected might be injured as a result of his negligence and he owes this duty of care to such a person quite independently of his contract of employment. The duty is imposed not because he has entered into a contract but because he has undertaken the work.

Mr. Fiott referred us to Yianni -v- Edwin Evans & Sons (1981) 3 W.L.R. 843, the headnote of which reads as follows:

"The Plaintiffs, who wished to buy a house at the price of £15,000, applied to a building society for a mortgage. The building society engaged the defendants, a firm of valuers and surveyors, to value the property, for which report the plaintiffs had to pay. Although the mortgage application form and building society literature advised the plaintiffs to obtain an independent survey, they decided not to do so because of the cost. The defendants valued the property at £15,000 and assessed it as suitable for maximum lending. The building society offered the plaintiffs a maximum loan of £12,000. The plaintiffs received a notice under section 30 of the Building Societies Act 1962 indicating that an advance from the building society did not imply that the purchase price was reasonable. They accepted the offer and purchased the house on January 6, 1976. In October 1976, cracks caused by subsidence were discovered and by 1978, the cost of repairing the property was £18,000. The plaintiffs claimed damages against the defendants for negligence. The defendants admitted that they had been negligent in preparing the valuation report but denied that they owed a duty of care to the plaintiffs, alleging that the plaintiffs' loss was caused by their own negligence in failing to commission an independent survey. On the plaintiff's claim:-

Held, giving judgment for the plaintiffs, that the defendants knew that their valuation of the house, in so far as it stated that the property provided adequate security for an advance of £12,000, would be passed on to the plaintiffs, who, in the defendants' reasonable contemplation, would place reliance on its correctness in making their decision to buy the house and mortgage it to the building society notwithstanding the statements by the society that it did not warrant that the purchase price was reasonable; that, accordingly, there was a sufficient relationship of proximity such that in the reasonable contemplation of the defendants, carelessness on their part might be likely to cause damage to the plaintiffs, and, since the plaintiffs' failure to have an independent survey or to take other steps to discover the true condition of the house was due to their reliance on the defendants' valuation, the allegation of contributory negligence failed".

According to Mr. Fiott, Yianni -v- Edwin Evans & Sons is the linch-pin of the plaintiffs' case. We do not consider that is so because in that case Park J. merely applied the dicta of Denning L.J. in Candler -v- Crane, Christmas & Co. (1951) 2 K.B. 164 C.A. and of Lord Wilberforce in Anns -v- Merton London Borough Council (supra) and Hedley Byrne & Co. Ltd. -v- Heller & Partners Ltd. (supra) to the facts of the particular case, and found that the defendants knew that their valuation of the house, in so far as it stated that the property provided adequate security for the advance, would be passed on to the plaintiffs. In the instant case the defendant did not know that copies of survey reports were being made available to borrowers.

This Court finds that Anns -v- Merton London Borough Council is the most persuasive authority. The analysis of Lord Wilberforce is, as we have said, compelling because of its logic and we find ourselves in accord with those Commonwealth countries that have applied it. The question here is whether the defendant should have known that the plaintiffs were likely, not necessarily to receive a copy of the report but, to be made aware of the contents of the report, and whether the plaintiffs were so closely and directly affected by his acts and omissions that the defendant ought reasonably to have had them in contemplation as being so affected.

Ross -v- Caunters (a firm) (1979) 3 All E.R. 580 found that the defendants, a firm of solicitors, were liable to the plaintiff, a beneficiary under a will drawn up by the defendants for a testator. Sir Robert Megarry V.C. held, inter alia, that there was a sufficient degree of proximity between a solicitor and an identified third party for whose benefit the solicitor was instructed to carry out a transaction for it to be within the solicitor's reasonable contemplation that his acts or omissions in carrying out the instructions would be likely to injure the third party. At page 588, he said this:-

"...to hold that the defendants were under a duty of care towards the plaintiff would raise no spectre of imposing on the defendants an uncertain and unlimited liability. The liability would be to one person alone, the plaintiff. The amount would be limited to the value of the share of residue intended for the plaintiff. There would be no question of widespread or repeated liability, as might arise from some published mistatement on which large numbers might reply, to their detriment. There would be no possibility of the defendants being exposed, in the well-known expression of Cardozo C.J. 'to a liability in an indeterminate amount for an indeterminate time to an indeterminate class': see Ultramares Corpn -v- Touche (1931) 174 N.E. 441 at 444. Instead there would be a finite obligation to a finite number of persons, in this case one".

Similarly, in the instant case to hold that the defendant was under a duty of care towards the plaintiffs would raise no spectre of imposing on the defendant an uncertain and unlimited liability. Mr. Connew said that if the plaintiffs had not purchased the property he was sure that the Housing Department probably would have shown a copy of the report to the next prospective buyer. But, be that as it may, only the actual purchaser could suffer loss. The liability would be to the Housing Committee and the eventual purchaser, in this case the plaintiffs, and the Housing Committee did not suffer loss. There would be no question of widespread or repeated liability. In the words of Sir Robert Megarry, there would be a finite obligation to a finite number of persons, in this case two joint owners.

In Ross -v- Caunters, Sir Robert Megarry V.C. referred to Ministry of Housing v. Sharp (1970) 1 All E.R. 1009. At page 1018, Lord Denning M.R. said:

"I have no doubt that the clerk is liable. He was under a duty at common law to use due care. That was a duty which he owed to any person - encumbrancer or purchaser - who, he knew or ought to have known, might be injured if he made a mistake".

And:-

"Counsel for the defendants submitted to us, however, that the correct principle did not go to that length. He said that a duty to use due care (where there was no contract) only arose where there was a voluntary assumption of responsibility. I do not agree".

And:-

"In my opinion the duty to use due care in a statement arises, not from any voluntary assumption of responsibility, but from the fact that the person making it knows, or ought to know, that others, being his neighbours in this regard, would act on the faith of the statement being accurate. That is enough to bring the duty into being. It is owed, of course, to the person to whom the certificate is issued and who he knows is going to act on it.... But it also is owed to any person who he knows or ought to know, will be injuriously affected by a mistake, such as the encumbrancer here".

This Court asks itself the two questions put by Lord Wilberforce in Anns -v- Merton London Borough Council. Firstly, as between the defendant and the plaintiffs, is there a sufficient relationship of proximity or neighbourhood such that, in the reasonable contemplation of the defendant, carelessness on his part was likely to cause damage to the plaintiffs? In the Court's judgment this question has to be answered in the affirmative. The fact that the plaintiffs were not expected to see the report does not deter the Court from finding a duty of care established. The defendant supplied two copies of the report. The defendant knew that his inspection and report were in connection with a proposed purchase of the property with the assistance of a States' loan. The report was not a valuation. Nevertheless, it would guide the Housing Department as to whether the property was structurally sound and whether works should be required to be carried out as a condition of the grant of the loan. Inevitably, it seems to us, officers of the Department were bound to discuss the findings of the defendant with the prospective purchaser and borrower.

Indeed the very wording of the report seems to call for disclosure to the actual purchaser, whoever he might be. If not, who was it intended should act on the recommendation that early attention be given to a programme of general inspection and making good? Although we have cited only those parts of the report that relate to the roofs there are similar recommendations elsewhere in the report. With reference to the composite roof light in the landing/stair area we find this: "We would recommend that particular attention is paid to the maintenance of external finishes and flashings with regard to this area...." We ask who by if not the purchaser, to whom the recommendation should be passed-on by the Housing Department? Under the heading of "Floors" we find the following: "...we would recommend that a prudent house owner should take such steps as may be economically reasonable to alleviate these effects, such as the increased and prudent use of fresh air ventillation both within the accommodation and to the floor voids". Under the heading of "Windows and Doors" we find the following: "External decoration to window frames would appear to be in relatively poor condition in a number of areas and we would recommend that early attention is given to the making good and redecoration of such external components, in order to inhibit their further deterioration." Under the heading of "The Elevations" we find this: "...though we would recommend that attention should be afforded during the normal course of maintenance to the making good of external defects...and that these defects should be periodically monitored...purely as a precaution". And as Mr. Fiott pointed out to us, on the subject of the painted timber shutters to the south elevation, the report recommended their removal though not necessarily their replacement. All these items cry out for disclosure to the purchaser and borrower in order that he might implement the recommendations and, in so doing, protect the Housing Committee's security. It would be only the purchaser, whoever he might be, who could attend to such matters as ventillation, monitoring and the normal course of maintenance. In our judgment, on the evidence in this case, at the time the defendant made his inspection and reported he ought to have known that the purchaser of the property might well be affected, in the decision which he took, by the contents

of the report. The defendant ought to have known that the second copy of the report, or a summary of it, or its conclusions might go to the purchaser.

The fact that the indentity of the plaintiffs was not known to the defendant is not, in our opinion, material. Mr. Wilde conceded that the survey report could and did assume that a prospective purchaser existed. He agreed that the actual name of the purchaser could not make any real difference. In Ministry of Housing -v- Sharp (supra) the duty extended to any encumbrancer. It is enough that the person to whom the duty is owed should be identifiable; it is not necessary that he should be identified at the time that the work giving rise to his claim is carried out.

The Court must go on to consider whether there are any considerations which ought to negative, or to reduce or limit the scope of the duty, or the class of person to whom it is owed or the damages to which a breach of it may give rise.

In our judgment, there are no considerations which ought to negative or reduce or limit the scope of the duty to the plaintiffs. As was said in Ross -v- Caunters there is a finite obligation to a finite number of persons, in this case two joint purchasers. Thus the class of persons to whom the duty was owed is limited 'per se'. And, most importantly, there was no disclaimer to negative liability.

Accordingly, we find that the defendant owed a duty of care to the plaintiffs.

Pleadings

In the Order of Justice the Plaintiffs alleged that the defendant prepared the report on the general condition of the property "for the benefit of the Plaintiffs" and that the defendant well knew that the prospective purchasers, as

States' loan purchasers, required the report for the purpose of considering whether or not to purchase the property as their home.

Mr. Valpy submitted, rightly in our view, that the defendant did not prepare the report "for the benefit of the plaintiffs", but for the Housing Department and that the allegation that the defendant well knew that the plaintiffs required the report for the purpose of considering whether or not to purchase the property was unsupported by the evidence.

The further submission that there could not be any implied terms whereby the defendant was bound to the plaintiffs, whilst true, is of no importance, because it was pleaded in the alternative and the duty of care, which we have found, is in tort and was so pleaded.

Mr. Valpy referred us to Poingdestre's Lois et Coûtumes at page 161 "Des Libelles ou Billets" as authority for saying that the first step in the procedure must contain the precise claims of the plaintiff and that if the action is founded on a false or inept cause it must be rejected. The analogy being that because the Order of Justice falsely alleged knowledge on the part of the defendant which did not exist, this Court should reject the present action.

But practice and procedure have evolved considerably since the days of Poingdestre. Mr. Valpy suggested that the principles enunciated by Poingdestre have been embodied in the Royal Court Rules. But it appears to the Court that the Royal Court Rules allow for greater flexibility. For example, the Court may at any stage of the proceedings allow a plaintiff to amend his claim or any party to amend his pleading.

In Sayers et uxor v. Briggs & Company (Jersey) Ltd. (1963) J.J. Vol 1, Part 1, 249 at p.251 the Court said this:-

"The only allegation in the Order of Justice is that confusion may be caused by the choice of name by the defendant Company. Now it is not confusion which is of the essence of the matter but deception, whether innocent or not.

"We have considered whether, in the circumstances, we should non-suit the plaintiffs but have decided that it is not in the interests of Justice that we should do so. We do not believe that to insist on the niceties of pleading serves any useful purpose in the administration of the law unless it can be clearly shown that any failure so to do would have for effect to take a party to the proceedings by surprise or to deprive him of a defence that might otherwise be open to him.

"In our opinion no such considerations arise in this case and we intend to treat the plaintiffs' case as containing the allegation that the defendant Company is by its choice of name representing that its business is that of the plaintiffs".

In a second action between the same parties (1964) J.J. Vol.I. Part 1, 339 at p.401 the Court said:-

"It may well be that the plaintiffs' case might have been better expressed, but we do not believe that to insist upon the niceties of pleading serves any useful purpose in the administration of the law unless it can be clearly shown that any failure to do so could have for effect to take a party to the proceedings by surprise or to deprive him of a defence that might otherwise be open to him.

"In our opinion no such considerations arise in this case...."

We appy the same principles in the instant case. All that would be required to amend the Order of Justice would be the deletion of the words "for

the benefit of the Plaintiffs" in paragraph 3, the addition of the words "or should have known" after the word "knew" in paragraph 4 and the addition of the words "or should have known" after the words "well knew" in paragraph 5. In our opinion, and having regard to the plaintiffs' Reply, the defendant was not taken by surprise, nor was he deprived of a defence that might otherwise be open to him.

Therefore, we decline to non-suit the plaintiffs.

The reliance issue

The Court is satisfied, on the evidence in this case, that the plaintiffs did rely on the survey report in reaching their decision to 'go ahead' and complete the purchase of the property. It is true that they had gone a long way along the road to purchase before they saw the report. They had made a provisional offer which had been accepted. They had applied for Housing Committee consent to the purchase and they had applied for the States' loan. But they knew that the Housing Department would obtain a survey report. The Court accepts the evidence of Mr. Duquemin that the plaintiffs awaited the arrival of the report with keen anticipation. It was only after seeing the report which was "looking good" that the plaintiffs went ahead with the purchase. We accept the evidence of Mr. Duquemin that, had they appreciated the true significance of the report, the plaintiffs would have gone to the Vendor of the property to seek a reduction in price and that if they had failed to achieve it they would have been unable to purchase. The plaintiffs did not commit themselves to purchase until the 10th March, 1982, and we find, as a matter of fact, that they decided to commit themselves to the purchase in reliance on the survey report.

The Survey and Report

The defendant assumed the general condition or relative integrity of the main roof void area from observation of external finishes. The comments on

roof coverings were based on what could be seen of the various external elements from ground level and from various vantage points. The slight bowing noted to the majority of the main roof was assumed to be attributable to slight historic settlement, the shape and extent of flashings to the east and west chimney stacks extending into the assumed line of settlement appeared to demonstrate no significant increase in recent years. Extensive works of maintenance appeared to have been carried out to roof edges and chimney stacks. A minor number of slates to the south facing roof slope appeared to be deflected and might have slipped. Painted applications to the north facing roof slope appeared to be flaking. The current condition of these finishes served to mask and confuse the possible deflection of slates and flashings. Edges of the roof finish adjacent to the north party stack appeared to be in slight disarray and the early inspection and maintenance of this immediate area was recommended. Whilst roof finishes were currently assumed to be generally serviceable, the defendant recommended that early attention be given to a programme of general inspection and to the making good of any detached or deflected slates and flashings and to the making good of pointing and cappings to chimney stacks (the underlinings are ours).

Under the heading of "Observations" the defendant listed, for ease of reference, certain factors which he felt should be specifically drawn to the Housing Department's attention. These were, under the sub-heading "Roof Void":- "1. Prevalence of dampness and slight decay to timber components adjacent to chimney stack in northern area. 2. Lack of access to main roof void; relative integrity assumed from external observations"; and under the sub-heading "Roof coverings":- "8. General condition; early inspection of edges and possible making good".

And under the heading "Conclusions" the defendant reported that "Bearing in mind the above remarks and on evidence found during the course of our inspection, we consider the property to be in average condition....when compared with other properties of similar construction and vintage that we

have inspected elsewhere in the Island. ....we are of the considered opinion that the building is currently structurally sound and is basically stable".

The case for the plaintiffs is that the report was defective and the defendant negligent; the defendant denies negligence. Therefore, the Court must examine and consider the quality of the report and of the work done by the defendant and/or by Mr. Bois on his behalf.

The Court does not propose to review the whole of the evidence. The crux of this case lies in the advice given by the defendant and on his behalf that early attention should be given to a programme of general inspection and "making good" whereas, according to the plaintiffs and their witnesses, the whole of the roofs required re-covering. On the evidence that the Court heard, and applying the test of the balance of probabilities, we are satisfied that the plaintiffs have proved that as at the relevant time, that is between the 27th January and 3rd February, 1982, the roofs of the property were already in such a defective condition that they required total re-covering. The Court appreciates that Mr. Riley first saw the roofs in October, 1983, and Mr. Lyon in November, 1983, and that there must have been some deterioration between February, 1982, and October or November, 1983. But any doubt that the Court might have entertained in this respect was resolved by the evidence of Mr. Bagnall, a roofing contractor of considerable experience, who saw the roofs in 1981. Whilst we have paid very close attention to the evidence of Mr. Wilde, it does not persuade us to ignore the earlier evidence. When questioned about the evidence of Mr. Bagnall, Mr. Wilde said that the question was how far the Court would accept the evidence of a non-surveyor, but the Court sees no reason to reject the evidence of Mr. Bagnall, with his practical knowledge and experience, merely because he has no professional qualification. Indeed, Mr. Wilde conceded that, as an experienced slater, Mr. Bagnall would be well capable of saying that a roof was "finished", but the question was should the surveyor have recognized it when making his survey? Which, of course, is the next question that we have to consider, having decided, as we do, that as at

February, 1982, the roofs of the property required total re-covering. Because we agree with Mr. Valpy that the core of the case is not the state and condition of the roofs but the question: was the survey and report negligent in relation to the roofs?

Mr. Bois, who inspected the property and prepared the report for the defendant, does not hold a professional qualification by examination but, we accept, is well qualified by experience. When he inspected the property he had with him torches, a screwdriver or other sharp point, tapes and, in particular, binoculars. His "assumptions" as to the roof coverings were based on visual inspection at ground level with binoculars.

With regard to the roof void, Mr. Bois did not recall any water penetration beyond the roof void itself which he inspected visually and where he made tests. There were high levels of moisture and a slight leak might be persisting in the area of the chimney stack and this area would have to be inspected, but to have a full view at that stage would entail disruption of the owner far beyond what a reasonable family would tolerate. With regard to the slates themselves, the object of keeping the elements outside the roofs was being achieved, so on that basis and an external view he assumed that the roofs were generally serviceable for their age, in the main and at that time.

On the balance of the evidence we have found, as we have already said, that the roofs at that time required complete re-covering and, therefore, that making good was not sufficient. Similarly, on the balance of the evidence, we consider that, with the use of binoculars, Mr. Bois should have been aware, even by visual inspection, that there was at least a likelihood that complete re-covering of the roofs would be necessary in the early future.

Mr. Bois, and the defendant in the ensuing report, made a large number of assumptions. Those assumptions gave the impression, in our view, that there was no cause for alarm. What needed to be done could be done by general inspection and making good in the course of ordinary maintenance. Mr. Lyon

told us that he had never once used the word "assumed" in a survey report and that, in his opinion, the defendant should not have made an assumption that the roofs were generally serviceable. On the other hand, Mr. Wilde told us that every survey is a compromise, because a complete survey would be prohibitively costly and would disturb the property to an unacceptable extent and, therefore, that there are many parts where the surveyor has to make assumptions and that he must tell his client where he has made assumptions - assumptions indicate that he is basing his opinion on insufficient evidence, hence the recommendation for further inspection. The defendant told us that he personally would use the word "assumed" and explained that where there is no proof but some evidence, a surveyor draws assumptions.

It is necessary for us to resolve this apparent conflict. In our judgment, Mr. Bois made assumptions that were not justified by what he saw, or should have seen. We consider that the letter of the 3rd February, 1982, is significant. Here the defendant was saying: "We do not believe that any of our comments in the 'Observations' section of the report will require urgent or immediate attention; we envisage that items so noted would be attended to by a prudent house owner during the normal course of maintenance". That letter, whilst not seen by the plaintiffs, is very indicative of the state of mind of Mr. Bois and the defendant. All the assumptions made were such as to allay any fear in the minds of the Housing Department and thus of the plaintiffs. As Mr. Lyon put it, a purchaser would interpret the assumptions made as meaning that he really need not worry too much about his roof. Or as Mr. Duquemin put it, he thought that he had a slight problem with the roof which would be dealt with in the ordinary course of maintenance. There was nothing in the report that put either the Housing Department or the Plaintiffs on their guard that anything might be seriously wrong.

In the judgment of the Court there was the same urgent need for a full inspection or investigation and report on the roofs of the property as there was for timber preservation specialists to be employed. The latter was recommended

by the letter of the 3rd February, 1982, resulting in the Housing Department requiring, as a condition of the grant of the States' loan, that the plaintiffs should carry out the works recommended in the timber reports within three months of passing contract; the former was not.

The evidence of Mr. Bois as to early inspection is important. He recommended that, with regard to the roof finishes, early attention should be given to a programme of general inspection and to making good and that, with regard to the north roof void, there should be early inspection and maintenance. When asked to define early inspection he explained that he would use urgent for straight away or today, early for within weeks or soon and in due course for later. He went on to say that if he was in direct contact with his client, early would mean before contract, because when a report was prepared for the client, he would take the client through the report and would have pointed out that early inspection was necessary. The defendant said that 'early' meant, say, within the next six weeks.

It appears to us that on the basis of Mr. Bois' explanation he should have been in direct contact with the Housing Department and should have pointed out to the Department that early inspection was necessary. However, Mr. Bois explained that away as follows: the brief was for a superficial inspection for mortgage purposes, if the survey had been for the plaintiffs the emphasis of the report would have been different, an explanation to the client is not a golden rule and is decided in each case on its merits, and if the survey had been for the plaintiffs he would have explained the risks and the potential risks in not having an inspection.

In our view that explanation is inconsistent with the letter of the 3rd February, 1982. Moreover, Mr. Bois, for the defendant, had been commissioned during the previous year to prepare a report for a particular client, a Mr. Cruickshank, who was an interested purchaser or lender, and carried out a survey and had prepared a broadly similar report on the general condition of

the property. His report on the roofs had been on broadly similar lines. This contradicts the explanation that the emphasis of the report would have been different for a private client and that different language would have been used. The only difference would be that the client would be available for explanation and advice. However, the covering letter to Mr. Cruickshank was exhibited to us; it contained one glaring difference from that of the 3rd February, 1982. As we have said, the latter stated that "We do not believe that any of our comments in the 'Observations' section of the report will require urgent or immediate attention". The earlier letter, dated the 18th November, 1981, said that "With the exception of comments covering roof finishes, we do not believe that other comments in the 'Observations' section of the report will require or (sic) immediate attention. (Emphasis added). The word 'urgent' is omitted from the letter of the 18th November, 1981, but the meaning is clear - the comments concerning roof finishes did require urgent and immediate attention.

The failure so to advise the Housing Department, in our judgment, was negligent. We have no hesitation in concluding that, if the Housing Department had been advised that inspection of the roofs should be not merely early but urgent or immediate, the Department would have added that requirement to its "Schedule of Works" and the plaintiffs would have been alerted to the potential risk. We must also say that if an inspection of the roofs was called for as urgent or immediate in November, 1981, the recommendation, in February, 1982, that early attention should be given to a programme of general inspection was itself negligent. Moreover, the word 'programme' appears itself to be negligent because, if it has any meaning, it must envisage a series or course of inspections and not a single urgent or immediate inspection of the whole. Mr. Bois denied this, saying that when he saw the property on the 29th January, 1982, the roofs did not need urgent attention, that he had a difference of opinion with that expressed by Mr. Bagnall, and that on the occasion of his second visit he had greater vision and was satisfied that the level of urgency had reduced slightly from 'urgent' to 'early'; the need for inspection was then 'soon' rather than 'now'. It is interesting to note that under the heading of

Windows and Doors the report stated that "External decoration to window frames would appear to be in relatively poor condition in a number of areas and we would recommend that early attention is given to the making good and redecoration of such external components...."

'Early' in that context no doubt meant 'soon' rather than 'in due course' but could only mean soon after purchase since it involved physical making good and redecoration. In exactly the same way we believe that "early attention to a programme of general inspection and to the making good..." would be read as inspection soon after purchase combined with the making good of such defects as might be found on inspection.

When Mr. Bois was questioned as to the purpose of the recommended inspection he said that it was to discover whether part of the roofs, or the whole, or none, required renewal. But the report does not mention renewal in whole or in part but refers only to the making good of detached or deflected slates or flashings and the making good of pointing and cappings. If the renewal of the whole of the roofs was even a possible result of the recommended inspection, we unhesitatingly find that the report was negligent in concealing that possibility.

As Mr. Lyon said in evidence he would have reported that the roofs were in a defective condition and that there should be a detailed survey of the roofs before purchase by either himself or a contractor; there was no comparison between maintenance and renewal.

We confess that we find some difficulty in following the logic of Mr. Wilde's evidence on these matters. He said that the making good would hinge on the inspection; the inescapable implication was that one would repair those parts found defective on inspection. He said that the report may have misled the plaintiffs but would have been clearly understood by the Housing

Department and fairly reported what Mr. Bois saw. In the context of the report the further inspection should take place before the exchange of contracts. However, the report did not recommend inspection before purchase. The report was telling the Housing Department that the state of the roofs did not reduce the security but that the purchaser should take steps and have an early inspection. In advising the Housing Department it was not necessary that the inspection should be pre-contract. A prudent purchaser could have a survey made for himself. Very few people do so because they are ill-advised; people take enormous risks in acquiring property. A report prepared for a purchaser would have advised that all further investigation take place before the exchange of contracts. And there would have been discussions between the surveyor and the purchaser. However, the question here was "must the survey say 'carry out the inspection before you exchange contracts' or was it implied?" It was for the Court to decide.

We agree that that is a question for the Court to decide. To do so we do not really need the evidence of Mr. Lyon on the quality of the report because we have formed our own view. Nevertheless, we agree with his opinion that to a recipient of the report, there was insufficient emphasis on the possibility of need for the replacement of the roofs; it did not mean the full re-covering and replacement of the battens. In the judgment of the Court, the report should have stated categorically that a full investigation of the state of the roofs should be carried out before the Housing Department committed itself to making the States' loan available and thus before the plaintiffs committed themselves to purchase the property. Mr. Wilde accepted that he had no previous experience of a lending authority that was able to decide the price at which a property could be sold. Nor of the practice whereby the Schedule of Works was prepared by the lending authority. Here the price was consented to by the Housing Committee. The Housing Department officers also decided the question of security for the States' loan. But States' loan borrowers were, of necessity, people of limited means. A survey report was obtained in order to identify any serious or abnormal risk and to obtain advice on works needed to

be carried out. The Department's officers would use the professional expertise of the surveyor upon which to base their own assessment. In the present case they did not feel that they were put on enquiry about any serious risk with regard to the roofs. Had inspection been advised as a pre-requisite to a transaction and the inspection had shown a need to re-cover the roofs at a cost of say £4,000, further negotiations would have ensued; if the Committee's security was likely to be affected a condition that the work should be carried out would have been made. Several possibilities would have ensued - the plaintiffs might have withdrawn; the States' loan might have been increased; the purchase price might have been reduced. It is impossible now to say which of these possibilities would have been fulfilled and it is not material to the decision we have to make.

Causation

Mr. Valpy, citing J.E.B. Fasteners v. Marks, Bloom & Co. (1981) 3 All E.R. 289 argued that the defendant's negligence in preparing the report (which was of course denied) was not a cause of any loss suffered by the plaintiffs as a result of purchasing the property. But Woolf J., dealing with the causation issue at page 304 says that "Where a representation is made and is relied on, there is a strong inference, in the absence of evidence to the contrary, that the results which follow were brought about by the representation". That case related to company accounts prepared by the defendants. The plaintiffs had purchased the company. On the reliance issue Woolf J. found in favour of the plaintiffs. He said "..., I do not think that the accounts...were of critical importance to the plaintiffs, but this does not mean that they did not rely on them". However, on the causation issue he found in favour of the defendants and concluded that the negligence of the defendants was not causative of any loss which the plaintiffs may have suffered as a result of taking over the company. At page 305 he said this: "At first sight my conclusion on causation may seem inconsistent with my finding that the plaintiffs relied on the accounts. The distinction, as I see it, is that you can be influenced by

something even though if you had not been influenced you would have acted in the same way. The plaintiffs relied on the accounts in deciding to take over B.G. Fasteners Ltd. but they would have acted no differently even if they had known the true position as to the accounts. I therefore reject Mr. Bufton's evidence on this issue. In doing so, I do not suggest that he deliberately lied. On the contrary, he gave evidence as to the position as he now believes it to be. His recollection is, however, tainted by how badly things went after the take-over".

We have no hesitation in distinguishing the instant case. We do not reject the evidence of Mr. Duquemin, nor do we think that his recollection is tainted by how badly things went after the purchase. The defendant should have contemplated the use to which his report would be put. He should have appreciated that in the case of States' loans, the funds of the eventual borrower (purchaser) are likely to be very limited. The inspection soon after purchase would be of no value to either the Housing Committee or the plaintiffs unless nothing more than maintenance was involved. We believe that the plaintiffs would have acted differently if they had known the true position as to the roofs. The plaintiffs were misled by the report. We find in favour of the plaintiffs on the causation issue.

We find that the defendant was negligent in that he did not expressly recommend a full inspection or investigation of the state and condition of the roofs of the property prior to any commitment to make available a States' loan, and thus to purchase, being made; accordingly the defendant failed in the duty of care that he owed to the plaintiffs.

Contributory Negligence

The defendant pleaded contributory negligence on the ground of the failure of the plaintiffs to obtain an independent detailed survey or to have the property (and particularly the roofs) inspected by a builder.

Thus we return to the second question put by Lord Wilberforce in Anns -v- Merton London Borough Council: "...it is necessary to consider whether there are any considerations which ought to negative, or to reduce or limit the scope of the duty or the class of person to whom it is owed or the damages to which a breach of it may give rise".

In this case the duty of care arises because the defendant should have known that the report would be made available to and would be relied upon by the purchaser of the property. In the defendant's reasonable contemplation the plaintiffs would place reliance upon its correctness in making their decision to complete the purchase of the property.

There was a similar plea of contributory negligence in Yianni -v- Evans & Sons which was rejected by Park J.

It is true that the plaintiffs failed to obtain an independent survey or to have the roofs inspected by a builder, but that failure was due to the fact that they relied on the defendant's report. We have been given no persuasive reason why they were unwise to do so, other than the fact that the report was negligent. No doubt, if the report had contained an express recommendation that the roofs should be further surveyed or be inspected by a builder, prior to purchase, and the plaintffs had failed to do so, then they would have been held to be negligent. But, in our judgment, on the evidence, the allegation of contributory negligence fails.

In our judgment, and for the reasons we have given, the defendant is liable to pay damages to the plaintiffs for the loss they have suffered by his negligence. Accordingly, we give judgment for the plaintiffs on the issue of liability.

Authorities and Texts referred to in the Judgment

Authorities

Hedley Byrne & Co Ltd -v- Heller and Partners Ltd (1964) A.C. 465

Anns -v- Merton London Borough Council (1978) A.C. 729, (1977) 2 All ER 492

Takaro Properties Ltd -v- Rowling (1978) 2 N.Z.L.R. 318, 323

Tuens -v- Mackenzie (1980) 109 D.L.R. (3d) 473, 489

Voli -v- Inglewood Shire Council (1963) A.L.R. 657

Yianni -v- Edwin Evans & Sons (1981) 3 W.L.R. 843

Candler -v- Crane, Christmas & Co. (1951) 2 K.B. 164 C.A.

Ross -v- Caunters (a firm) (1979) 3 All ER 580, 588

Ultramares Corpn -v- Touche (1931) 174 N.E. 441 at 444

Ministry of Housing -v- Sharp (1970) 1 All ER 1009 at p.1018

Sayers et Uxor -v- Briggs & Company (Jersey) Ltd (1963) JJ Vol 1 Part 1 249 at p. 251

Sayers et Uxor -v- Briggs & Company (Jersey) Ltd (1964) JJ Vol 1 Part 1 339 at p 401

J.E.B. Fasteners -v- Marks, Bloom & Co (1981) 3 All E.R. 289, 304, 305

Texts

Poingdestre's Lois et Coûtumes at p. 161 "Des libelles ou Billets"

Charlesworth and Percy on Negligence, 7th Edition, para 9-06 at p. 513

Legislation construed:-

Building Loans (Jersey) Law, 1950, as amended

Royal Court Rules, 1982, as amended