

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



ALZAWY V COPTIC ORTHODOX CHURCH DIOCESE OF SYDNEY, ST MARY AND ST MERKORIOUS CHURCH (NO.2) [2016] NSWSC 1123

Supreme Court of New South Wales, Garling J, 19 August 2016

Applicant guilty of contributory negligence for harm sustained from fall while descending stairs.

Key words: Negligence, New South Wales, Breach of Duty, Duty of Care, Contributory Negligence, Reasonable Care for Own Safety.

1. This was a case concerning negligence for a slip and fall event. The plaintiff was a member of the congregation of the defendant church (a corporate body). After a meeting at the church she fell on a flight of stairs consisting of 16 steps after slipping on a broken tile on the 6th step from the top of the flight. Liability of the defendant was established by the failure to maintain the stairs properly. However, the plaintiff came down the stairs holding an item in one hand and nothing in the other. She did not make use of the handrail provided. The court held that the plaintiff could have easily avoided the fall by taking the simple measure of holding onto the handrail. Thus, contributory negligence was established at 50%. This meant that the negligence was split 50/50 between the plaintiff and the defendant. Damages have yet to be ascertained.

IMPLICATIONS



This case illustrates that the church should have maintained the staircase in undamaged condition. Not doing so was a breach of the church's duty of care to persons using the staircase. Moreover, the church had a caretaker who had pointed out the damaged tile four years before the plaintiff's fall. Nothing had been done to fix the defect. The church would have been wholly liable for the plaintiff's injuries if there had not been held to be contributory negligence by the plaintiff in carelessly descending the stairs.

VIEW THE CASE



This case may be viewed at <http://www.austlii.edu.au/au/cases/nsw/NSWSC/2016/1123.html>

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