

SUPREME COURT OF OREGON

Loosli v. City of Salem, 345 Or. 303

193 P.3d 623 (2008) · No. SC S055509; CA 130044; CC 04C17616 · Decided October 2, 2008

SUMMARY

The Supreme Court of Oregon held that the City of Salem owed plaintiffs no statutory or other duty supporting a negligence claim for purely economic losses allegedly caused by an incorrect certification on a vehicle dealer application. Applying principles associated with Restatement (Second) of Torts section 552, the court concluded that the certification was provided to assist the DMV in coordinating regulatory requirements, not for plaintiffs' guidance or benefit. The court affirmed the Court of Appeals and the circuit court's judgment for the city.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Kistler, J.
JURISDICTION	Oregon
DECIDED	October 2, 2008
DOCKET	SC S055509; CA 130044; CC 04C17616
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs sought review of a Court of Appeals decision affirming summary judgment for the City of Salem on plaintiffs' negligence claim for purely economic losses caused by allegedly incorrect information supplied by a city employee.
STANDARD OF REVIEW	Summary judgment is reviewed based on the summary judgment record, viewing the facts and all reasonable inferences in the light most favorable to the nonmoving party. The existence of a duty sufficient to support the negligence claim was reviewed as a legal issue.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Byron Loosli, Melinda Loosli, Ben Lemire, Cynthia Lemire, Divine Guidance, LLC, dba Just a Good Car Lot v. City of Salem

TOPICS

negligence

negligent misrepresentation

municipal liability

administrative law

damages

PRACTICE AREAS

torts

municipal law

administrative law

remedies

QUESTIONS PRESENTED

1. Whether the City of Salem owed plaintiffs a statutory or other duty permitting recovery for purely economic losses allegedly caused by the City's negligent certification of a vehicle-dealer application.
2. Whether the City's regulatory relationship with plaintiffs, including accepting a fee and signing the DMV certification, created a special relationship or other duty to protect plaintiffs' economic interests.

HOLDINGS

1. A claimant cannot recover purely economic losses in negligence based solely on foreseeability; the claim must rest on a source of duty outside the common law duty to exercise reasonable care to prevent foreseeable harm.
2. The City's certification under ORS 822.025(6) did not create a statutory or relationship-based duty to protect plaintiffs from economic loss because the certification served DMV's regulatory purposes and was not supplied for plaintiffs' guidance or benefit.

KEY QUOTATIONS

"It follows from those decisions that, even if it was reasonably foreseeable that plaintiffs would suffer economic loss as a consequence of the city's actions, that fact is not sufficient to state a negligence claim against the city." (345 Or. at 305)

"Some source of a duty outside the common law of negligence is required." (345 Or. at 305)

"the city owed no statutory or other duty to plaintiffs that would permit them to state a negligence claim against the city for purely economic losses." (345 Or. at 311)

FACTUAL BACKGROUND

Plaintiffs leased property in Salem intending to operate a used-car business and applied to the Oregon DMV for a vehicle dealer certificate. A Salem associate city planner signed the application certification stating that the proposed location complied with local land-use and business-regulatory ordinances. The City later informed plaintiffs that an overlay zone prohibited automobile sales at that location, causing plaintiffs to move the business and claim economic losses.

PROCEDURAL HISTORY

Plaintiffs sued the City of Salem after a city planning employee mistakenly certified that plaintiffs' proposed used-car business complied with local ordinances. The circuit court granted the City's motion for summary judgment, concluding that the City owed plaintiffs no statutory or other duty supporting recovery for purely

economic loss. A divided en banc Court of Appeals affirmed, and the Oregon Supreme Court allowed review and affirmed.

DISPOSITION

affirmed

CASES CITED

- Loosli v. City of Salem, 215 Or. App. 502, 170 P.3d 1084 (2007)
- Oregon Steel Mills, Inc. v. Coopers & Lybrand, LLP, 336 Or. 329, 83 P.3d 322 (2004)
- Hale v. Groce, 304 Or. 281, 744 P.2d 1289 (1987)
- Onita Pacific Corp. v. Trustees of Bronson, 315 Or. 149, 843 P.2d 890 (1992)
- Conway v. Pacific University, 324 Or. 231, 924 P.2d 818 (1996)