

CANADA / JUDGMENT

Artell Developments Ltd. v. 677950 Ontario Ltd.

[1993] 2 SCR 443

COURT

Supreme Court of Canada

DECIDED

4 June 1993

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[1993] 2 SCR 443 Case number 23116 Judges Lamer, Antonio; La Forest, Gérard V.; L'Heureux-Dubé, Claire; Sopinka, John; Gonthier, Charles Doherty; Cory, Peter deCarteret; McLachlin, Beverley; Iacobucci, Frank; Major, John C. On appeal from Ontario Subjects Constitutional law Criminal law Notes SCC Case Information: 23116 Decision Content Artell Developments Ltd. v. 677950 Ontario Ltd., [1993] 2 S.C.R. 443 Artell Developments Limited Appellant v. 677950 Ontario Limited, Paul Horvat, Wone Tone Financial Services Inc. and Gunther Holdings Ltd. Respondents and The Attorney General of Canada Intervener Indexed as: Artell Developments Ltd. v. 677950 Ontario Ltd. File No.: 23116. 1993: June 4. Present: Lamer C.J. and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ. on appeal from the court of appeal for ontario Criminal law -- Criminal interest rate -- Land purchased for resale at profit -- Purchaser mortgaging property -- Mortgagee to receive interest plus 50% of profit -- Total interest amounting to criminal rate -- Not enforceable in civil action -- Criminal Code, R.S.C., 1985, c. C-46 . s. 347 . Constitutional law -- Division of powers -- Property and civil rights -- Criminal Code provision dealing with excessive interest -- Whether or not provision within provincial powers -- Constitution Act, 1867, s. 92(13) -- Criminal Code, R.S.C., 1985, c. C-46, s. 347 . Statutes and Regulations Cited Constitution Act, 1867, s. 92(13) . Criminal Code, R.S.C., 1985, c. C-46, s. 347 . APPEAL from a judgment of the Ontario Court of Appeal (1992), 93 D.L.R. (4th) 334, 75 C.C.C. (3d) 343, 24 R.P.R. (2d) 113, 57 O.A.C. 189, allowing an appeal from a judgment of Bell Oyen J. (1989), 16 A.C.W.S. (3d) 391. Appeal dismissed. Ian G. Scott, Q.C., Richard P. Stephenson and Ian McGilp, for the appellant. Milton A. Davis, Andrea Habas and Ronald D. Davis, for the respondents. Robert J. Frater, for the intervener. //Iacobucci J.// The judgment of the Court was delivered orally by Iacobucci J. -- We are all of the view that this appeal should be dismissed for substantially the reasons given by Blair J.A. in the Ontario Court of Appeal (1992), 93 D.L.R. (4th) 334. Taking all the circumstances of this case into account, we agree that the so-called sharing of profits

scheme came clearly within the provisions of s. 347 of the Criminal Code, R.S.C., 1985, c. C-46 , and the appellant by entering into the agreement violated s. 347 . As to the constitutional question raised, namely: Is s. 347 of the Criminal Code, R.S.C., 1985, c. C-46 , ultra vires the Parliament of Canada in so far as it purports to regulate matters within the exclusive jurisdiction of the provinces pursuant to s. 92(13) of the Constitution Act, 1867 ? We are all of the view that the answer is no. Accordingly, the appeal is dismissed with costs. Judgment accordingly. Solicitors for the appellant: Gowling, Strathy & Henderson, Toronto. Solicitors for the respondents: Bresver, Grossman, Scheininger & Davis, Toronto. Solicitor for the intervener: The Attorney General of Canada, Ottawa.

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