

CANADA / JUDGMENT

Lapointe v. Hôpital Le Gardeur

[1992] 1 SCR 382**COURT**

Supreme Court of Canada

DECIDED

13 February 1992

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Lapointe v. Hôpital Le Gardeur Collection Supreme Court Judgments Date 1992-02-13 Report

[1992] 1 SCR 382 Case number 21698 Judges Lamer, Antonio; L'Heureux-Dubé, Claire; Sopinka, John; Gonthier, Charles Doherty; Cory, Peter deCarteret On appeal from Quebec Subjects Torts Notes SCC Case Information: 21698 Decision Content Lapointe v. Hôpital Le Gardeur, [1992] 1 S.C.R. 382 Hôpital Le Gardeur Appellant v. Gabrielle Imbeault-Lapointe and Paul-Émile Lapointe, in his personal capacity and as tutor to his minor daughter Nancy Lapointe Respondents Indexed as: Lapointe v. Hôpital Le Gardeur File No.: 21698. 1991: October 3; 1992: February 13. Present: Lamer C.J. and L'Heureux-Dubé, Sopinka, Gonthier and Cory JJ. on appeal from the court of appeal for quebec Civil responsibility -- Hospital -- Action against doctor and hospital -- No fault on part of doctor -- Action against hospital dismissed. Alleging medical malpractice, respondents brought an action for damages against a doctor and the appellant hospital. The Superior Court found no fault on the part of the doctor and dismissed the action. The Court of Appeal reversed this judgment and found both the doctor and the hospital liable. In the companion appeal, Lapointe v. Hôpital Le Gardeur, [1992] 1 S.C.R. 000, this Court allowed the doctor's appeal. Held: The appeal should be allowed. The action against the hospital must follow the outcome of the action against the doctor. Since the doctor was found not to have been at fault, the hospital cannot be held liable. Cases Cited Applied: Lapointe v. Hôpital Le Gardeur, [1992] 1 S.C.R. 000. APPEAL from a judgment of the Quebec Court of Appeal, [1989] R.J.Q. 2619, 25 Q.A.C. 33, 2 C.C.L.T. (2d) 97, reversing a judgment of the Superior Court dismissing respondents' action against appellant. Appeal allowed. Pierre Bélanger and Michel Robert, for the appellant. Jean-Pierre Pilon and Yvan Major, for the respondents. The judgment of the Court was delivered by //L'Heureux-Dubé J.// L'Heureux-Dubé J. -- This appeal was argued concurrently with the appeal by Dr. Chevette, a physician on emergency duty at the Hôpital Le Gardeur who administered emergency care to Nancy Lapointe, the respondents' daughter. Alleging fault by Dr. Chevette, the respondents sued both Dr. Chevette and the hospital. The Court of Appeal allowed the respondents' action against Dr. Chevette as well as the hospital, hence the appeal brought by each of them, appeals that were argued concurrently. In a judgment rendered today this Court allowed the appeal brought by Dr. Chevette, reversed the Court of Appeal's judgment and affirmed the

judgment of the trial judge dismissing the respondents' action against Dr. Chevette, concluding he was not at fault: Lapointe v. Hôpital Le Gardeur, [1992] 1 S.C.R. 000. The respondents' action against the hospital must necessarily follow the outcome of that brought against Dr. Chevette. The hospital could only be liable, whether legally, delictually or contractually, depending on the thesis retained, in the event that Dr. Chevette was found to be at fault. All these important and highly interesting questions, as well as various theories put forward in this area, were argued in this Court, but always from the perspective of professional fault on the part of Dr. Chevette. As Dr. Chevette was not found liable, this Court has nothing further to decide except to allow the appellant hospital's appeal from the Court of Appeal's judgment. Any other question which the parties might wish this Court to decide or which the Court might be inclined to consider would only be obiter in the circumstances. I am of the view that, however tempting it might be, it would be neither wise nor appropriate to undertake a review of such important matters in this context. I would accordingly allow the appeal, reverse the Court of Appeal's judgment and restore the trial judgment, the whole without costs throughout. Appeal allowed without costs. Solicitors for the appellant: Langlois, Robert, Montréal. Solicitors for the respondents: Pilon & Lagacé, Montréal.

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