

NOVA SCOTIA COURT OF APPEAL

Citation: United Dominion Industries Ltd. v. North Sydney Associates, 2006
NSCA 58

Date: 20060512
Docket: CA 257847
Registry: Halifax

Between:

United Dominion Industries Limited

Appellant

v.

North Sydney Associates

Respondent

Judge: The Honourable Justice Roscoe

Appeal Heard: April 12, 2006

Subject: Torts, pure economic loss, dangerous construction, proof of dangerousness

Summary: The owner of the North Sydney Shopping Mall sued the manufacturer of the steel joists used to support the roof of the mall which was constructed in 1979, claiming as damages the costs of repairs it alleged were necessary to prevent a collapse of the roof. The trial judge found that the joists contained serious welding defects which constituted a real and substantial danger and that the repairs undertaken were reasonable and awarded the plaintiff damages of \$553,327. The manufacturer of the joists appealed.

Issues: Did the trial judge err in law in concluding that the plaintiff proved that all the defects were so significant as to constitute a real and substantial danger, in finding that all the repairs undertaken by the plaintiff were necessary to remove the danger and by placing a burden on the defendant to prove that the deficiencies did not constitute a real and substantial danger?

Result: Appeal dismissed. The trial judge properly applied the law as established in **Winnipeg Condominium Corporation No. 36 v. Bird Construction Co.**, [1995] 1 S.C.R. 85. The findings of facts were amply supported by the evidence.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 24 pages.