

REMEDIES CASE NOTES



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Contents

Australian Broadcasting Corp v Lenah Game Meats (2001) 208 CLR 199	
De Sales v Ingrilli (2002) 212 CLR 338.....	
New South Wales v Ibbett (2006) 231 ALR 485	

Sample

Australian Broadcasting Corp v Lenah Game Meats (2001) 208 CLR 199

- Court details

High Court of Australia

- Procedural history

The Appellant, Australian Broadcasting Corp (ABC) brought an Appeal in the High Court seeking to discharge an interlocutory injunction that had been granted by the Supreme Court of Tasmania. This injunction prevented ABC from distributing, copying or broadcasting video tape which included images and sounds of possums being stunned and killed at the Respondent's licensed abattoir. The broadcasting of this video tape would "cause financial harm to the Respondent".¹

- Facts

The Respondent processes and supplies game meat and sells possum meat of Tasmanian bush tail possums for export. The possums are killed and processed at the Respondent's licensed abattoirs.

Although the methods of killing the possums are lawful, they "are objected to by some people, including people associated with Animal Liberation Limited, on the ground that they are cruel."²

Hidden cameras were installed in the Respondent's premises after a break and enter. The possum-killing operations were filmed. This filming was done without the Respondent's knowledge or consent. The film was supplied to Animal Liberation Limited.

¹ *Australian Broadcasting Corporation v Lenah Game Meats* (2001) 208 CLR 199 ("ABC v Lenah"), at [1]

² *ABC v Lenah*, at [23].

Animal Liberation Limited then supplied the film to the Appellant, “with the intention that the Appellant would broadcast it.”³

The possum-killing operations of the abattoir are not confidential nature. However, “if displayed to the public,” these operations “would cause distress to some viewers. It is claimed that loss of business would result.”⁴

- Issues

The Appellant sought an order to discharge the interlocutory injunction granted by the Supreme Court of Tasmania, which prevented the Appellant from distributing, copying or broadcasting the video tape.

The legal issues for the High Court’s consideration may be summarised as:

- Whether it would be unconscionable to allow the Appellant to publish the film taken as a result of illegal, tortious or improper means;
- Whether the Court should take into account all of the circumstances of the case in assessing unconscionability;
- Whether a Court of Equity has the jurisdiction to grant an injunction to any person who has received the injunction, regardless of whether he or she was actually implicated in the illegal, tortious or improper means of obtaining the video tape;
- Whether the fact that the video tape was illegally, tortiously or improperly obtained should weigh heavily;
- Whether the Appellant was bound in conscience not to publish the video tape because of the illegal, tortious or improper nature it was obtained;

³ *ABC v Lenah*, at [24] per Gleeson CJ.

⁴ *ABC v Lenah*, at [25] per Gleeson CJ.

- Whether information obtained as a result of trespass should be treated in the same manner as confidential information.



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suggestions.**

Sample