

- T12 Maliciously, in purported compliance with s. 569E, intending to cause harm to the Plaintiffs or to a class of persons which included the Plaintiffs, and to lend verisimilitude to the unlawful manner of its approval of the subdivisions referred to in paragraphs T7 and T8 the Council fabricated Notices of Requirement. The Notices purported to have issued on 20th February 1980. The Council well knew that there was no lawful basis for the issue of the Notices.

PARTICULARS

- (i) See paragraph T20(c) below.
- T13. Further and in the alternative to paragraphs T11 and T12 above, the Council undertook the conduct described in those paragraphs with reckless disregard as to the probability that such conduct would occasion harm to the Plaintiffs or to a class of persons which included the Plaintiffs.
- T14. Further and in the alternative to paragraphs T11, T12 and T13 above the Plaintiffs allege that the acts complained of in those paragraphs and attributed to the Council relating to the endorsement of the plans of subdivision, and the issue and/or fabrication of Notices of Requirement dated 20th February 1980, were acts committed by Porter. At the time that Porter committed the aforementioned acts he was:
- (a) an officer of the Council and duly appointed in accordance with the statutory provisions as pleaded in paragraph 9 above;
 - (b) acting in the course of his employment as an officer of the Council.

Accordingly, the Council was vicariously liable for the acts done by Porter.

- T15. The Council, by sealing the parent plan, the series of industrial plans and the series of residential plans (and thereby approving the subdivisions referred to therein) represented to the Registrar of Titles that the parent plan and each of the ten plans comprising both the series of industrial plans and the series of residential plans:
- (a) was a genuine plan of subdivision;
 - (b) had been approved by the Council in accordance with the Council's obligations pursuant to the provisions of the Local Government Act, the Sale of Land Act, the Transfer of Land Act and the Interim Development Order then in force.

- (c) that Buchanan had done, or was liable to do, all the things required of him by the Council under s.569E(1) and s.569E(IA)
- (d) that each and every allotment set out in the plans of subdivision was a useable allotment for the purposes of 569B(7)(a)(iii)

The representations to the Registrar of Titles contained in each of the paragraphs (a) to (d) above, were false.

T16. Between the 21 May 1980 and 12 April 1981, relying on the representations of the council as set out in paragraph T15 above the Registrar of Titles:

- (a) accepted for lodgement, the parent plan;
- (b) accepted for lodgement, the 3 plans comprising the series of industrial plans;
- (c) accepted for lodgement, the 7 plans comprising the series of residential plans;
- (d) assigned a Lodged Plan number in relation to the parent plan namely LP134684;
- (e) assigned a separate Lodged Plan number in relation to each of the 3 plans comprising the series of industrial plans namely LP135199, LP135200 and LP135201;
- (f) assigned a separate Lodged Plan number in relation to each of the 7 plans comprising the series of residential plans namely LP135202 to LP135208 inclusive.

from which time Lot 1 of LP134684 being the parent industrial allotment was subject to the 3 plans comprising the series of industrial plans and Lot 2 of LP134684 being the parent residential allotment was subject to the 7 plans comprising the series of residential plans. Accordingly, the Registrar was deceived as to the true nature of the allotments referred to in paragraphs (a) to (f) above in that he was unaware (inter alia) of the fact that none of the allotments were serviced by roads or water, nor was he aware that at the time of registering the plans that there was no legally enforceable requirement upon any person to provide such roads or water. Had the Registrar been aware of the facts and circumstances pleaded in this paragraph, title would not have issued in respect of the said allotments.

T17. In or about September 1980, relying upon a copy of the original plan referred to in paragraph T1, and representations by Buchanan, the Plaintiffs purchased from