

Codelfa Construction v State Rail Authority of New South Wales (1982) 149 CLR 337

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Facts

- Codelfa was contracted to build tunnels for the Rail Authority of NSW, 24/7 so it would be finished in time. They believed the Rail Authority had permission to do so.
- Part way into the contract, an injunction was granted against the work following complaints from the neighbours. Codelfa agreed to only work at day time.
- Extra costs were incurred by this, and the State Rail Authority refused to pay, saying they didn't act according to the contract.
- Codelfa argued that either there was an implied term in the contract for this circumstance, OR that they should be paid on *quantum meruit*.

Issue

- What is the Australian perspective on the *parol evidence* rule and implied terms?

Held

- *Mason J*: Rectification contains a term actually agreed on. Based on actual intention.
- Implication (by contrast) is a term that was not agreed, but is said would have been there. Based on presumed intention.
- Courts are reluctant to imply terms. In order to imply a term, it must give business efficacy, "go without saying", doesn't contradict other terms, etc
- Parol evidence rule: outside evidence only accepted when face value is confusing
- Outside evidence can resolve ambiguity but not raise it
- A term cannot be implied because there are too many ways the parties may have chosen to resolve the issue
- Frustration, however, can succeed.
- Codelfa is entitled to be paid

Law case summary from www.lawcasesummarries.com