

Pioneer Concrete Services Ltd v Galli [1985] VR 675

<https://lawcasesummaries.com/knowledge-base/pioneer-concrete-services-ltd-v-galli-1985-vr-675/>

Facts

- Under an agreement dated 13 September 1978, control of Apex Quarries Ltd ("**Apex**") passed from Lorenzo Galli and Michael Galli to Pioneer Concrete services ("**Pioneer**"). Pursuant to that agreement, the Gallis resigned from all their positions with Apex in December 1978.
- The agreements had covenants restraining the Galli from competing with Apex and using confidential information.
- On 5 May 1983, companies controlled by the Gallis leased land which had substantial deposits of basalt, in close proximity to Apex's quarry. Apex had previously been interested in acquiring these deposits.
- The Gallis engaged a geologist, brought equipment onto the land to obtain samples for testing.
- No action had commenced at the time of trial. No licence or permits had been obtained. No options had been exercised. No reasonable prospect of obtaining these permits and licences for a considerable time.
- Pioneer and Apex sued, alleging breaches of the covenants. The action was dismissed at first instance. Pioneer and Apex appealed.

Held

- The appeal was dismissed.
- There was no business which the Gallis were carrying on or conducting. There was no other business in which they were engaged, concerned or interested, contrary to the covenants.
- The work carried out by the Gallis was exploratory and did not amount to the direct preparation of any quarries.

Quotes

"[B]efore the business gets underway, those preparatory acts cannot be characterised as constituting or forming part of a business; nor can the participants be described at that stage as carrying on...a business."

Full Text

The full text is available here: <https://victorianreports.com.au/judgment/view/1985-VR-675>