

The Southern Center of Theosophy v State of South Australia [1982] AC 706

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Facts

- P held a perpetual lease of Crown land to the west of South Australia granted in 1911.
- The lease describes the land of 500 acres, showing boundary as the high water mark surveyed in late 1800s.
- The shoreline had changed significantly over the years creating about 20 acres of new land, caused by the retreat of water following the cutting of a channel from the lake to the sea, gradual movement of sand, etc.
- The P applied for a declaration that those 20 acres by doctrine of appreciation, was to be added to the original lease. However it was also still possible to determine the original size by reference to the surveyed map.
- The P succeeded in their application in the supreme court of SA but lost in the full bench because of the terms of the lease which was described as the same as lineated in the public maps.
- Appealed to Privy Council

Held

- The PC upheld the finding of the trial judge, said doctrine of appreciation was applicable.
- They noted that it meant imperceptible in its progress not after a long lapse of time.
- Gradual enough in the context.
- Court struggled to understand rationale for imperceptibility.
- They rejected it was fixed because it could be ascertained from the map.
- Wilberforce said the doctrine was fair and the potential loss by erosion was balanced by the possible gain.

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