

Twist v Randwick Municipal Council (1976) 136 CLR 106

<http://lawcasesummarries.com/knowledge-base/twist-v-randwick-municipal-council-1976-136-clr-106/>

Facts

- The NSW *Local Government Act 1919* provided that the authority could order a house be demolished if it was in a dilapidated or unsightly condition which affected the neighbourhood.
- There was no requirement for the authority to hear the owner's response before making the order but they could appeal to the District Court within 60 days.
- Mr Twist failed to lodge the appeal within the 60 days or within the three-month extra time granted by the Council and thus it was planned the demolition would go ahead.
- Mr Twist applied to have the decision declared void for lack of natural justice, i.e. that he had not been heard properly.

Issue

- Was the decision of the Council void for lack of natural justice?

Held

- Barwick CJ acknowledged that there is a common law precedent that a statutory authority, with the power to affect the rights and obligations of a person, should hear that person before exercising the power.
- However, if there is unambiguous legislative intent to exclude this right, then the Court cannot interfere and must give effect to what parliament intended.
- Mason J also dismissed the appeal, stating that due to the subject matter, nature of the order, degree of urgency and most importantly, the comprehensive nature of the appeal, it was his view that the appeal was the only remedy available to an owner.
- Mason J further opined that doing so was an adequate protection for a person's rights and could cure any defect stemming from not being heard *before* the decision was made.
- Therefore a person could not ignore the avenues for appeal available to them and h
- Thus Mr Twist failed and his house was demolished.

Significance

- This decision highlights the general principle that courts will approach a case with an assumption that the Parliament does not intend to exclude principles of natural justice, however if the intent is clear, the courts must give effect to it.
- In some instances (but not all), the existence of a comprehensive appeal right after the fact will be enough to fulfil the requirements of natural justice.

Quotes

- "The Court will approach the construction of the statute with a presumption that the legislature does not intend to deny natural justice to the citizen. Where the legislation is silent on the matter, the court may presume that the legislature has left it to the courts to prescribe and enforce the appropriate procedure to ensure natural justice." [110]
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Full Text

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Law case summary from www.lawcasesummaries.com