

Wilson v Darling Island Stevedoring and Lighterage Co Ltd (1956) 95 CLR 43

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Facts

- A Bill of Lading was agreed between the carrier (the owner of the ship *Tremayne*) and the consignors of the goods that a case of *tulle soie* and *tulle rayonne* would be shipped from Marseilles to Sydney, the rights under the Bill of Lading being subsequently endorsed to Wilson.
- Darling Island Stevedoring and Lighterage Co Ltd ("**the Stevedore**") was employed by the shipowner to act as stevedore and to discharge, stack and store the ship's cargo.
- The servants of the Stevedore, whilst acting under this arrangement, negligently operated a mobile crane; the crane hit a water pipe and rendered Wilson's goods useless after being soaked in water.
- Clause 1 of the Bill of Lading stated:

"The carrier has no responsibility whatsoever for the goods prior to the loading on and subsequent to the discharge from the vessel. Goods in the custody of the carrier or his agents or servants before loading and after discharge whether being forwarded to or from the vessel or whether awaiting shipment, landed, or stored, . . . are in such custody at the sole risk of the owners of the goods and the carrier shall not be liable for loss or damage arising or resulting from any cause whatsoever."

- The Stevedore argued that clause 1, which expressly protected the carrier, also enured for its benefit, while it was performing the carrier's obligations under the Bill of Lading.

Issues

- Was the Stevedore protected by the Bill of Lading exclusion clause?

Held

- The High Court, Fullagar J (with whom Dixon CJ "entirely agreed") and Kitto J (Williams and Taylor JJ dissenting) held that the Stevedore was not protected by the exclusion clause, since it was not expressed to be made in its favour.
- Even if the clause had purported to protect the Stevedore, it could not help because the Stevedore

was not a party to the contract evidenced by the Bill of Lading.

- The Stevedore was not a party to the contract evidenced by the Bill of Lading, and therefore it could neither sue nor be sued on that contract.

Full Text

The full text is available here: <https://jade.io/j/?a=outline&id=65194>

Law case summary from www.lawcasesummaries.com