



HIGH COURT OF AUSTRALIA

10 December 2014

ARGOS PTY LTD & ORS v SIMON CORBELL, MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT & ORS

[2014] HCA 50

Today the High Court unanimously allowed appeals by two supermarket businesses and held that they are persons aggrieved by the decision of the Minister for the Environment and Sustainable Development to approve an application for a commercial development at a site near their premises. By majority, the Court dismissed an appeal by the landlord of one of the businesses and held that the landlord is not a person aggrieved by the Minister's decision.

In 2011, the Minister made a decision under s 162 of the *Planning and Development Act 2007* (ACT) to approve a development application made by the second and third respondents for a commercial development, which was to include a supermarket and specialty shops, at the Giralang Local Centre. The second and third appellants each conduct a supermarket business at a Local Centre near Giralang, and the first appellant is the second appellant's landlord.

Section 5(1) of the *Administrative Decisions (Judicial Review) Act 1989* (ACT) ("the ADJR Act") provided, at the relevant times, that a person aggrieved by a decision was entitled to apply to the Supreme Court of the Australian Capital Territory to have that decision reviewed on one or more stated grounds. Section 3B(1)(a) provided that a reference to a "person aggrieved" by a decision includes a reference to "a person whose interests are adversely affected by the decision".

The appellants sought judicial review of the Minister's decision under the ADJR Act. The primary judge accepted that, by increasing competition and reducing the annual turnover of the Local Centres at which they conduct their businesses, the development will have an adverse economic effect on the second and third appellants. The primary judge also accepted that the economic interests of the first appellant may be "indirectly affected" by the development. But the primary judge concluded that none of the appellants were persons aggrieved by the Minister's decision, because the adverse effects were "too remote" and the appellants' interests were not sufficiently "directly affected". The Court of Appeal dismissed the appellants' appeals, stating that "[a]s a general rule mere detriment to the economic interests of a business will not give rise to standing". By special leave, the appellants appealed to the High Court.

The High Court rejected the existence of such a general rule and unanimously held that, on the facts established before the primary judge, the second and third appellants had demonstrated that they were each a person whose interests are adversely affected by the Minister's decision and that they are therefore each a person aggrieved by the decision. By majority, the Court held that the first appellant had not established that its interests are adversely affected by the Minister's decision. The Court also held, by majority, that the statutory criterion for standing under s 3B does not alter according to the scope and purpose of the enactment under which a decision is made or purported to be made.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*