

**Chow v. Dixie Park Inc.**

Between  
Tak-Hing Chow, Chu Lin Lee, Joyce Chan, Salima Din and Edmund  
Chan, in trust, appellants (plaintiffs), and  
Dixie Park Inc., respondent (defendant)

[1996] O.J. No. 2035  
DRS 96-13745  
C21283

**Ontario Court of Appeal  
Toronto, Ontario  
Robins, Catzman and Doherty J.J.A.**

Heard: May 31, 1996.  
Oral judgment: June 7, 1996.  
(2 pp.)

*Sale of land — The contract — Offer and acceptance — Implied terms — Respecting zoning.*

Appeal from a summary judgment in favour of the vendor which concluded that the purchasers of retail condominium units lost their right to make inquiries about zoning as soon as the agreements were signed.

**HELD:** Appeal allowed. The agreement was interpreted to mean that the purchasers were entitled to satisfy themselves with respect to zoning requirements subsequent to the execution of the agreements. In the absence of any provision in the contracts setting a specific time limit for that right, it was open to the purchasers to satisfy themselves before the agreements closed.

**Statutes, Regulations and Rules Cited:**

Courts of Justice Act.

**Counsel:**

Keith M. Landy, for the appellants.  
Barbra H. Miller, for the respondent.

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The following judgment was delivered by

1 **THE COURT** (oral endorsement):— Summary judgment was granted in favour of the respondent on the basis of the motions court judge's conclusion that, on a proper interpretation of the agreements of purchase and sale, the appellants were obliged to satisfy themselves with respect to zoning requirements before they signed the agreements. That in turn involves the conclusion that the purchasers of these retail condominium units, which were then under construction, lost their right to make inquiries about zoning as soon as the agreements were signed.

2 In our view, that is not a reasonable and practical interpretation of paragraph 19 of Schedule "C" to the agreements, nor is it one that is compelled by the language which the respondent chose to employ in framing that paragraph. As we read that paragraph, the appellants were entitled to satisfy themselves with respect to zoning requirements subsequent to the execution of their agreements. We accept the submission of counsel for the appellants that, in the absence of any provision in the agreement setting a specific time limit for that purpose, it was open to them in the circumstances to do so, as they did, before the agreements closed.

3 Accordingly, the appeal is allowed, summary judgment in favour of the respondent is set aside and in its place judgment will issue in favour of the appellants for the following amounts, together with prejudgment interest calculated in accordance with the Courts of Justice Act: the appellant Chu Lin Lee, \$24,000; the appellant Edmund Chan, \$32,000; the appellant Salima Din, \$28,520; and the appellant Joyce Chan, \$24,000.

4 The appellants are entitled to their costs here and below. Costs in the court below are fixed in the sum of \$4,000 and in this court in the sum of \$3,000.

ROBINS J.A.  
CATZMAN J.A.  
DOHERTY J.A.

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