



Neutral Citation Number: [2006] EWCA Civ 1454

Case No: B5/2006/0374/QBENF

IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
MR JUSTICE SIMON Case No: HQ03X02173

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 03/11/2006

Before:
MASTER OF THE ROLLS
LORD JUSTICE LONGMORE
and
LORD JUSTICE SCOTT BAKER

Between:
KR & ORS

- and -
ROYAL & SUN ALLIANCE PLC

Claimants/
Respondents

Defendant/
Appellant

Edward Faulks Q.C. and Nicholas Fewtrell (instructed by Messrs Hill Dickinson Llp) for
the Appellant

Robert F. Owen Q.C. and Philip Turton (instructed by Messrs Uppal Taylor) for the
Respondent

Hearing dates: 4/5 October 2006

Approved Judgment

73. [Name Redacted] had left in [DPA] 1981 i.e. before the amendment to the policy the following June. He therefore cannot recover in respect of abuse by John Allen but can recover in respect of other abuse, subject of course to the 25% deduction for the pre 1976 period when the insurers were not on cover.
74. [Name Redacted] was at Pentre Saeson for 2 years between 1984 and 1986 where, it so happens, John Allen was at the time the principal. He cannot recover for the abuse by John Allen; he can recover for the abuse he suffered at the hands of others.
75. [Name Redacted] was at Bryn Alyn and Bryntirion for 3 ½ years between 1976 and 1979. He cannot recover for abuse inflicted by John Allen; he can recover for abuse inflicted by other staff and residents, subject to the necessary 10% deduction.
76. [Name Redacted] was at Pentre Saeson for just over 3 years in total, all in the post 1981 period during which he was sexually abused by John Allen and by [Name Redacted] who was in charge of Pentre Saeson at the material time. He cannot therefore recover for abuse by either. That leaves minimal physical abuse which Connell J. thought insignificant in relation to the sexual abuse.

Conclusion.

77. Deliberate acts of sexual and physical abuse by John Allen from 1976 when cover began, and similar acts by principals of the various homes from June 1981, when the exception to the policy was extended to include managerial employees, all fall outwith the insured's cover. That is the true construction of the policy and the Insurer is not obliged to meet the claims in respect of these acts. They are, however, liable for the other acts of abuse found by Connell J. The appeal is therefore allowed to the extent we have indicated. Counsel told us they would be able to agree the financial consequences for each of the respondents.
78. There is a quite separate ground of appeal in respect of the order for costs made by the judge. As the appeal is to be allowed, the issue of costs will have to be considered afresh in the light of our conclusions. We invite the parties written submissions.