

Case Name:
Mack v. Canada (Attorney General)

Shack Jang Mack, Quen Ying Lee and Yew Lee
v.
Attorney General of Canada

[2002] S.C.C.A. No. 476

101 C.R.R. (2d) 375

File No.: 29475

Supreme Court of Canada

Record created: November 18, 2002.

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Status:

Application for leave to appeal dismissed (without reasons) April 24, 2003.

Catchwords:

Canadian Charter -- Civil -- Remedies -- Procedural law -- Actions -- Pleadings -- Statement of claim struck for disclosing no reasonable cause of action -- Whether Court of Appeal erred in determining that it was plain and obvious that the Applicants' claim failed to disclose a reasonable cause of action -- Principles upon which redress for past state acts may be sought and granted -- Whether s. 15 of the Charter can provide an independent right of redress -- Unjust enrichment -- Whether Court of Appeal erred in finding that the Chinese Immigration Act constituted a juristic reason for the enrichment of the Canadian government.

Counsel:

Mary Eberts (Eberts Symes Street & Corbett), for the motion.
Paul J. Evraire, Q.C. (Attorney General of Canada), contra.

Chronology:

1. Application for leave to appeal:

FILED: November 18, 2002. S.C.C. Bulletin, 2002, p. 1739.
SUBMITTED TO THE COURT: February 24, 2003. S.C.C.
Bulletin, 2003, p. 314.
DISMISSED: April 24, 2003 (without reasons). S.C.C.
Bulletin, 2003, p. 684.
Before: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for an extension of time is granted and the application for leave to appeal is dismissed.

Procedural History:

Judgment at first instance: Respondent's motion to strike out the Applicants' statement of claim granted; Applicants' class action seeking redress for the effects of the Chinese Immigration Act dismissed. Ontario Superior Court of Justice, Cumming J., July 9, 2001.
55 O.R. (3d) 113; [2001] O.J. No. 2794.

Judgment on appeal: Appeal dismissed.
Ontario Court of Appeal, Austin, Moldaver and
MacPherson JJ.A., September 13, 2002. 217 D.L.R. (4th) 583; 60 O.R. (3d) 737; [2002] O.J. No. 3488.

ver/rpl