

## Exercise 1

The Dominion Post newspaper has an associated website, [www.stuff.co.nz](http://www.stuff.co.nz)

Both publications ran the same story, as shown below. The newspaper version, immediately below, was published on November 9, 2017. The online version, below that, appeared on November 8.

1. What are the differences between the two versions of the story? Why do you think they exist?
2. Would the headline on the web version of the story show up in searches? Would it attract the web user?

# Cleared: Leaky home sellers win appeal

MATT STEWART  
AND JOEL MAXWELL

A Kapiti Coast couple have won a Court of Appeal case against the couple to whom they sold a leaky \$785,000 home - despite twice telling the buyers it didn't leak. Steven and Katharine Mason bought the two-storey house in Raumati South north of Wellington, from Andrew and Sharon Magee in 2011.

They subsequently found that, as a result of several original design and construction defects, it was a leaky home. The Masons said it would cost them \$940,000 to fix.

They took their case to the High Court earlier this year, and won a ruling that the Magees were liable for a "pre-contractual misrepresentation" that induced them to buy the house.

The High Court awarded damages against the Magees of about \$470,000, which the judge assessed to be the loss in value of the house, in Karekare Rd.

However, a Court of Appeal judgment published this week has overturned that decision, and found the Magees had no reason to believe the house they had been living in for two years was not weather-tight.

The principal question in the appeal revolved around a conversation between Sharon Magee and Katharine Mason at the house in 2011, in which Mason said "All I want to know is that this property is not a leaky house, because we couldn't cope with that."



Andrew and Sharon Magee, who won an appeal against a High Court decision relating to the sale of a leaky home in Kapiti.

Mason told the High Court: "Sharon replied that the house definitely was not leaky, and I recall her responding, 'Absolutely not. We have never had any issues with this house' (or words to that effect)."

This followed a previous conversation at a dinner with mutual friends, at which Sharon Magee said the house was not leaky.

The High Court found Magee's statement conveyed a misrepresentation about the building's design or construction.

However, two of the three appeal judges found Magee's statement was qualified by her not having experienced any leak problems, and having no reason to believe the house suffered leaky-home defects.

They found Mason "adopted an assumption that, having lived in the

property for two years, Mrs Magee would know whether it was a leaky building".

However, Magee did nothing to "engender that assumption". "In particular, she made no representations about her knowledge or expertise."

"We conclude that, with the qualification given by Mrs Magee, the statement did not reasonably mean the house was not, through design or construction, leaking or



The Raumati South house owned by Steven and Katharine Mason that is at the centre of a legal battle.

prone to leak."

The judges said the sale agreement was conditional on the Masons obtaining a building report to their satisfaction.

"Regrettably, the report failed to identify the weather-tightness issues," the court said.

The building inspector who provided the report later settled, paying \$68,000, the finding said. The appeal court set aside the High Court judgment, and ruled the Masons should pay legal costs.

However, one of the judges, Justice Patricia Courtney, split with the other members of the court. In a dissenting judgment, she found Sharon Magee's statement was unequivocal, and said she would have dismissed the appeal.

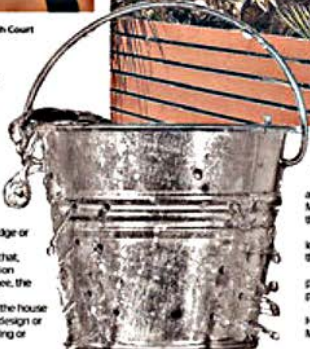
Sharon Magee said the decision had been "a long time coming". "We're just really happy that we decided to take it further, to the appeals court. The first finding was wrong." She said the Masons

commissioned a building report, which said the house was in good condition, with only a few minor concerns.

The case was brought "over a comment that was made at a dinner party amongst friends".

If the Magees had known it was leaky, they would have fixed it, she said.

Steven Mason said he and his wife had only recently received the appeal judgment, and did not wish to comment.



## Court case leaves leaky home buyers with legal bill on top of massive repair costs

MATT STEWART AND JOEL MAXWELL  
Last updated 20:16, November 8 2017



JOEL MAXWELL/STUFF

The house in Raumati South, north of Wellington, was bought by Steven and Katharine Mason from Andrew and Sharon Magee in 2011.

A Kāpiti Coast couple have won a Court of Appeal case against the couple to whom they sold a leaky \$785,000 home – despite twice telling the buyers it didn't leak.

Steven and Katharine Mason bought the two-storey house in Raumati South, north of Wellington, from Andrew and Sharon Magee in 2011.

They subsequently found that, as a result of several original design and construction defects, it was a leaky home. The Masons said it would cost them \$940,000 to fix.



SUPPLIED

The Magees have won their appeal against a High Court ruling that they misrepresented the state of the house.

(Online story continues below.)

They took their case to the High Court earlier this year, and won a ruling that the Magees were liable for a "pre-contractual misrepresentation" that induced them to buy the house.

**READ MORE:**

- \* [Leaky home class action granted more time to sign up new claimants](#)
- \* [NZ homeowners prepare Shadowclad lawsuit against Carter Holt](#)
- \* [Leaky homes class action against James Hardie filed](#)
- \* [Leaky homes: A crisis with no end in sight](#)
- \* [Wellington City Council makes secret deal with leaky homes](#)

The High Court awarded damages against the Magees of about \$470,000, which the judge assessed to be the loss in value of the house, in Karekare Rd.

However, a Court of Appeal judgment published this week has overturned that decision, and found the Magees had no reason to believe the house they had been living in for two years was not weathertight.

The principal question in the appeal revolved around a conversation between Sharon Magee and Katherine Mason at the house in 2011, in which Mason said: "All I want to know is that this property is not a leaky house, because we couldn't cope with that."

Mason told the High Court: "Sharon replied that the house definitely was not leaky, and I recall her responding, 'Absolutely not. We have never had any issues with this house' (or words to that effect)."

**DINNER CONVERSATION**

This followed a previous conversation at a dinner with mutual friends, at which Sharon Magee said the house was not leaky.

The High Court found Magee's statement conveyed a misrepresentation about the building's design or construction. However, two of the three appeal judges found Magee's statement was qualified by her not having experienced any leak problems, and having no reason to believe the house suffered leaky home defects.

They found Mason "adopted an assumption that, having lived in the property for two years, Mrs Magee would know whether it was a leaky building".

However, Magee did nothing to "engender that assumption". "In particular, she made no representations about her knowledge or expertise.

"We conclude that, with the qualification given by Mrs Magee, the statement did not reasonably mean the house was not, through design or construction, leaking or prone to leak."

**CONDITIONAL SALE**

The judges said the sale agreement was conditional on the Masons obtaining a building report to their satisfaction.

"Regrettably, the report failed to identify the weathertightness issues," the court said. The building inspector who provided the report later settled, paying \$68,000, the findings said.

The appeal court set aside the High Court judgment, and ruled the Masons should pay legal costs.

However, one of the judges, Justice Patricia Courtney, split with the other members of the court. In a dissenting judgment, she found Sharon Magee's statement was unequivocal, and said she would have dismissed the appeal.

**"LONG TIME COMING"**

Sharon Magee said on Wednesday the decision had been "a long time coming".

"We're just really happy that we decided to take it further, to the appeals court. The first finding was wrong."

She said the Masons commissioned a building report, which said the house was in good condition, with only a few minor concerns.


The case was brought "over a comment that was made at a dinner party amongst friends".

"The whole case was just about me saying those words – 'no, it's not a leaky home'."

If the Magees had known it was leaky, they would have fixed it, she said.

Steven Mason, who was at the house on Wednesday, said he and his wife had only recently received the appeal judgment, and did not wish to comment.

**- Stuff**

 **Myrddraal** 12 hours ago


bricks in Wellington region? especially in Sandy beach soil. I'd rather stick to wood

+8  

 **Garmish** 16 hours ago

This is not fair, i am going to appeal the findings against us in a leaky home claim a few years back. We sold our home which showed no signs of being leaky to a couple who 3 years later successfully claimed \$120,000 from us in a court because it was deemed we knew it was leaking. We were rorted, i am calling my solicitor tomorrow morning.

5 replies  +66  

 **Tulloch1** 14 hours ago


The result turned on a specific finding of fact, it does not establish a general principle that sellers of leaky homes are off the hook if they did not personally know the house was leaky.

1 reply  +19  

 **tank237** 13 hours ago

True. But it does provide precedent and case law to be called upon for reference.

+19  

 **pacific** 13 hours ago

That or get a new solicitor. Any result in which you had experienced no knowledge of leak issues before sale would not be a misrepresentation so like the case above you might have a chance. But it would be a fine thing since even in this case not everyone agreed the result & knowledge of the

reclaim issues and materials issues has been widespread in NZ to the point that anything built in

## **Exercise 2**

Scan through the hard news delivered on [stuff.co.nz](http://stuff.co.nz) and [nzherald.co.nz](http://nzherald.co.nz)

What are the main elements of online stories?