



HIGH COURT OF AUSTRALIA

Public Information Officer

27 September 2005

PAUL JOSEPH FAVELL AND DIANA GRACE FAVELL v QUEENSLAND NEWSPAPERS
PTY LTD AND JESSICA LAWRENCE

A story in Brisbane's *Sunday Mail* newspaper was capable of bearing the defamatory meanings complained of by Mr and Mrs Favell, the High Court of Australia held today.

The story, written by Ms Lawrence and published on 19 January 2003, reported that a fire had destroyed a riverside Brisbane home on a site where the Favells hoped to build a five-storey block of units. The Favell family was holidaying overseas and house-sitting relatives were absent at the time of the fire. The story quoted neighbours opposed to the development while Mrs Favell was quoted as saying that neighbours had been given the plans and "were fine about it". A detective from the arson squad was quoted as saying all fires were treated as suspicious until proven otherwise. The link between the house burning down and what the story said was the controversial plan to redevelop the New Farm site was at the centre of the Favells' defamation action. The headline was "Development site destroyed – Fire guts riverside mansion".

In the Queensland Supreme Court Justice John Helman struck out a large number of imputations that could not easily be differentiated from each other. He also rejected the claim that the story was capable of conveying the imputations that the Favells committed the crime of arson, that they were reasonably suspected by the police of committing arson, and that Mrs Favell lied about neighbourhood reaction to the proposed development. The Court of Appeal dismissed an appeal by the Favells, although it held that the story was capable of conveying an imputation similar to the second imputation. They appealed to the High Court.

The Court held that Justice Helman was incorrect to hold that the article reported the fire and the circumstances surrounding it without comment and went no further than recording that the fire was under investigation. It unanimously allowed the appeal and held that the story was capable of conveying all three meanings complained of. It is now for a jury to determine whether the story did in fact convey those meanings. The Court held that factors which a jury could find pointed to the Favells being responsible for the fire included: the headline; opposition to the plan to build the block of units; the prospect of getting approval for the plan improving if the site were vacant; the unexplained absence of the house-sitters; the fire starting at 4am; security gates preventing access to strangers; Mrs Favell creating the impression that the development was not controversial; and the Favells' absence overseas. The Court ordered that Queensland Newspapers' application be remitted to the Supreme Court for further consideration of other unresolved issues about the pleading.

- *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.*