



Can you be held to a promise you didn't even know was relied on? The High Court says yes.

Case Note: Kramer v Stone [2024] HCA 48

Introduction

The High Court of Australia, in *Kramer v Stone* [2024] HCA 48 has delivered a landmark estoppel judgement.

In simple terms, estoppel is a legal principle that stops a person (the promisor) from going back on their promise if another person (the promisee) has relied on that promise to their detriment.

Summary

In *Kramer*, the High Court has confirmed that a promisor does not need to either:

- actively encourage a promisee to rely on; or
- have actual knowledge that a promisee is relying on their promise,

to establish a proprietary estoppel by encouragement. This confirms the position in Australia, that the law of proprietary estoppel focusses on the detrimental impact of the promise on the promisee, rather than drawing attention to the conduct of the representor.

Background

In *Kramer*, a farm worker (“David”) was made a promise by the owner (“Dame Leonie”) of a farm (the “Property”) that he would inherit the Property upon their death. Had it not been for the promise made by Dame Leonie, David would have terminated his share farming agreement and obtained alternative employment at a much higher rate. In short, David had been led to believe by Dame Leonie that he would inherit the Property on her death. After she died, Dame Leonie had not left the Property to David, but instead to her daughters.

Insights

High Court Decision

The High Court in *Kramer* affirmed the Court of Appeal's decision in dismissing the appeal.

The High Court relied on preexisting rules that to establish an equitable estoppel there must be:

- a clear and unequivocal promise made by the promisor to the promisee, which will generally concern a representation about future conduct;
- reliance by the promisee upon the promise; and
- detriment on the part of the promisee in having relied upon the promise.

Simply put, the Court has reiterated its focus on the promisee's conduct and reliance on the promise of a promisor.

What does this mean for the industry?

By rejecting the appellants' arguments, the court clarified that a promisor does not need to take additional steps to encourage reliance after making a promise to satisfy the requirements of an equitable estoppel. The ruling establishes that a person can be bound by an equitable estoppel even if they were unaware that the other party was relying on their promise.

For businesses, this ruling reinforces the importance of being mindful that casual assurances or informal commitments may be enforceable under equitable estoppel. To avoid unintended liability, businesses should actively clarify statements they make and disavow any unintended promises. Ensuring that expectations and agreements are explicitly recorded through proper legal documentation will be crucial in preventing disputes.

Overall, the court's decision confirms that estoppel remains a flexible tool for preventing unfairness. The key takeaway for practitioners and businesses is to exercise caution in communications that could be construed as promises, as reliance may trigger legal consequences—even if the promisor wasn't fully aware of it.

Takeaway

For industry, the key takeaway is simple:

You can be held to your promises, even if you forget making them or don't realise that someone is relying on them. To avoid being stuck with a promise you didn't mean to make, make it clear as soon as possible that you're not committing to anything before the other person acts on it – the best way to ensure this is ensure what you have said is in writing.

For practitioners, the key takeaways are that:

- the concept of unconscionability describes the end result of the conduct that establishes an estoppel, rather than constituting an element of an estoppel;
- once a promise has been made, if the representee detrimentally relies on that promise, that may be sufficient to establish an estoppel by encouragement depending on the circumstances; and
- the representor's actual knowledge of the representee's reliance (or lack thereof) may be immaterial, depending on the circumstances.

More information

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