# Lawyers Beware: The Court Splits on the Principles to be Applied for Damages for Economic Loss in Recent Professional Negligence Case

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The Alberta Court of Appeal recently considered economic loss as it relates to a solicitor negligence claim. The matter concerned the transfer of two parcels of land, one of which, due to the negligence of the solicitor, was not conveyed pursuant to a Purchase and Sales Agreement.  At issue in the appeal was the manner in which the trial judge calculated the appellant's losses.

The appellant argued that the trial judge failed to take into account the increased value associated with the subdivision of the lots. The trial judge had found that the ability to profitably re-sell the properties in question was not the result of the lawyer's negligence in negligence or contract.

At the end of the day, the focus by the majority was on the remoteness principle. The Court of Appeal agreed with the lower court as to the date of breach but held that the reasonable foreseeability analysis required consideration of what was the "real risk" to the appellant of the negligence that ought to have been contemplated by the solicitor as at the date of breach. The majority held that the subdivision of the lands was reasonably foreseeable to the respondents at the time of the breach and that it was the subdivision of the lands, not the sale of them that increased their value. This was adequate to establish a loss in negligence.

Dissenting was Honorable Justice J.A. Watson who agreed in part but stopped at "any suggestion that remoteness is the sole limit on causation in economic loss cases."

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