

Νομολογία

Στοιχεία της υπόθεσης

Εθνικός αναγνωριστικός αριθμός: Supreme Court (Areios Pagos), Judgement 932/2019

Κράτος μέλος: Ελλάδα

Κοινή ονομασία: N/A

Είδος απόφασης: Απόφαση του Ανωτάτου Δικαστηρίου

Ημερομηνία απόφασης: 26/07/2019

Δικαστήριο: Άρειος Πάγος (Areios Pagos)

Θέμα:

Ενάγων:

Εναγόμενος:

Λέξεις-κλειδιά: advertisement, advertiser, advertising, advertorial, case law, competition, consumer rights, court, good faith, legal actions, liability, misleading advertising, misleading statements, national law, precontractual information, supply of gas, unfair commercial practices, unfair competition.

Άρθρα της οδηγίας

Misleading and Comparative Advertising Directive, [Article 2](#) Misleading and Comparative Advertising Directive, [Article 2](#) Misleading and Comparative Advertising Directive, [Article 3](#) Misleading and Comparative Advertising Directive, [Article 3](#) Misleading and Comparative Advertising Directive, [Article 5](#)

Περίληψη

The owners of a building's properties brought an action against an energy supply provider, which was using misleading advertising brochures, seeking compensation for restoration costs and non-material damage. The Supreme Court dismissed the appeal in cassation of the owners' representative against no. 1085/2017 judgement of the Court of Appeal. It judged that there is a six-month limitation period for proceedings concerning misleading advertising, starting from the moment that the injured party became aware of the action and the responsible person. Law no. 2251/1994 on consumer protection does not contain any provision related to time limits of claims concerning misleading advertising and as a result, art. 19 of Law no. 146/1914 on unfair competition is implemented in order to fill the vacuum. Consequently, the claims on compensation are time-barred and thus, rejected.

Πραγματικά περιστατικά

The applicant, acting as representative of the owners of the properties in his building, brought an action against the defendant, an energy supply provider, which was using misleading advertising brochures, and sought compensation for the restoration costs of the entrance door and the marble, as well as for non-material damages. Both the Court of First Instance and the Court of Appeal dismissed the action accepting that such actions for damages are time-barred in six months from the date that the applicant becomes aware of the action and the responsible person, according to article 19 of Law 146/1914. Furthermore, collective structures, without legal personality, such as groups of owners of properties in a building, do not suffer non-material damages, because they lack sentiment and thus, no frustration, mental pain nor distress can be accepted. The applicant raised an appeal in cassation before the Supreme Court.

Νομικό ζήτημα

When are claims for misleading advertising time-barred?

Απόφαση

The Supreme Court dismissed the appeal in cassation. Among others, it accepted that according to art. 19 of Law no. 146/1914 on unfair competition, claims deriving from provisions of that law, related to omission or compensation, are time-barred after six months from the date that the applicant becomes aware of the action and the responsible person, in any case after three years from the action. Concerning claims for compensation, the time limit does not begin before the time that the damage took place. Law 2251/1994 on consumer protection does not contain any provision related to time limits of claims concerning misleading advertising and as a result, the abovementioned art. 19 is implemented in order to fill the vacuum. Besides, article 14 para. 2 of Law no. 2251/1994 provides that the provisions of that law shall be without prejudice to the provisions on unfair competition. Moreover, paragraph 5 of the same article states that if common provisions give, in a certain situation, the consumer better protection than the special regulation of this law, common provisions are applied. However, provisions pertaining to limitations and exclusive deadlines are exempted. In the case that an action breaches simultaneously the special provisions of Law 146/1914 and Arts 914 and 919 of the Civil Code on tort liability, the special provisions are implemented. Limitation of article 19 aims at a rapid dispute settlement, deriving from competition provisions. As a result, the Supreme Court judged that the claims on compensation are time-barred and thus, rejected.

Πλήρες κείμενο: [Πλήρες κείμενο](#)

Συναφείς υποθέσεις

Δεν υπάρχουν αποτελέσματα

Νομική βιβλιογραφία

Δεν υπάρχουν αποτελέσματα

Αποτέλεσμα

The Supreme Court upheld the judgement of the Court of Appeal and dismissed the action. The Court establishes a legal precedent in law.