

Rättspraxis**Uppgifter om ärendet****Nationellt id-nummer:** NJA 2007 s. 962**Medlemsstat:** Sverige**Vedertaget namn:** N/A**Beslutstyp:** Beslut av högsta domstolen**Beslutsdatum:** 04/12/2007**Domstol:** Högsta Domstolen**Ämne:****Kärande:** Frevik Consult AB**Svarande:** Spouses S.Z. and N.Z.**Nyckelord:** complaints, service**Direktivartiklar**Consumer Sales and Guarantees Directive, [Article 5, 1.](#)**Huvudanmärkning**

(1) The period of limitation is not unreasonable to the defendants and shall be applied in its content.

(2) The period of limitation does not form a part of the agreement between the parties.

Omständigheter

The defendants purchased a real property and prior to the purchase, they hired the plaintiff to perform an inspection of the real property. The defendants contacted the plaintiff by telephone and the agreed on the time and date for the inspection to be carried out.

The plaintiff sent an order confirmation to the defendants, which included date and time for the inspection. The defendants signed the order confirmation and returned it to the plaintiff.

In the inspection report, a provision of limitation of liability was included. The limitation of liability stated that any claims against the plaintiff shall be made within reasonable time after the damage has been detected or should have been detected, however not later than two years after the inspection (the period of limitation).

The defendants brought an action against the plaintiff stating that the period of limitation should not be applied, which was ruled in their favour. The plaintiff appealed the ruling to the Court of Appeal, which also ruled in the favour of the defendants.

Juridisk fråga

(1) Is the period of limitation unreasonable to the defendants and shall it, on those grounds, not be applied?

(2) Does the period of limitation form a part of the agreement between the parties?

Beslut

(1) An inspection is considered an immaterial service which neither falls within the Consumer Sales Act or the Consumer Services Act.

If general rules on the statute of limitation would apply, the period of limitation would be ten years. However, based on the character of the service provided, analogies with the Consumer Sales Act and the Consumer Services Act must be made as regard the provisions on putting a trader on notice.

Based on the rules for putting a trader on notice in both the Consumer Sales Act and the Consumer Services Act, wherein the period of limitation is three years, the period of limitation for similar goods and services, such as an inspection, cannot be considered as generally surprising or particularly heavy for a purchaser thereof. The mere reason that the period of limitation in the Consumer Sales Act has been increased from two years to three years cannot affect this conclusion. Furthermore, there are not any other circumstances at hand that would imply that the period of limitation is unreasonable.

(2) Upon ordering the inspection, the plaintiffs had reason to assume that terms and conditions for the inspection would be specified in connection to the order of the inspection, as the service is quit complicated in its nature. However, as the order confirmation did not include any such specification of the terms and conditions applicable for the inspection, the plaintiffs shall not be bound by the period of limitation.

Hela texten: [Hela texten](#)**Ärendesamband**

Inga träffar

Doktrin

Inga träffar

Resultat

The court upheld the Court of Appeal's decisions and ruled in favour of the defendants.