

Bond Case Briefs

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NEGLIGENCE - NEW YORK

Fuentes v. 158 Management, LLC

Supreme Court, Appellate Division, First Department, New York - February 20, 2025 - N.Y.S.3d - 2025 WL 554490 - 2025 N.Y. Slip Op. 01044

Pedestrian, who allegedly sustained injuries when sidewalk collapsed, brought action against owner of building abutting sidewalk, city, city department of transportation, and city department of buildings to recover damages for injuries that she allegedly sustained when sidewalk collapsed and she fell to cellar vault below.

The Supreme Court, New York County, denied building owner's motion for summary judgment and cross-claims against it, granted pedestrian's motion for summary judgment on liability as against building owner, and granted city defendants' motion for summary judgment dismissing building owner's cross-claims. Building owner appealed.

The Supreme Court, Appellate Division, held that:

- Doctrine of res ipsa loquitur applied in pedestrian's action against building owner; and
- Building owner could not prevail on its cross-claims against city defendants.

Doctrine of res ipsa loquitur applied in pedestrian's action against owner of building abutting sidewalk that collapsed and caused pedestrian to fall to cellar vault below sidewalk; sidewalk collapse, which caused pedestrian's injuries, was not the type of event that ordinarily occurred in the absence of negligence, cellar vault was in exclusive control of owner and could only be accessed through basement door in the building, and pedestrian did not contribute to the accident, given that she was just standing on the sidewalk when it collapsed underneath her.

There was no evidence that any conduct by the city, city department of transportation, or city department of buildings caused or created the alleged defective condition of sidewalk, which collapsed and caused pedestrian to fall to cellar vault below, or that it made special use of the sidewalk, and thus, owner of building abutting sidewalk could not prevail on its cross-claims against city defendants, alleging that they were liable for pedestrian's injuries pursuant to city administrative code governing property owner's duty to maintain sidewalks.