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Recent authenticity dispute in Australia

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Judgment was rendered last month by the Supreme Court of New South Wales in the case of *McBride v Christie's Australia*. The case involved the auction sale of a painting by Australian modernist artist **Albert Tucker** in May 2000 to a barrister named Louise McBride for AUD \$75,000. Later, in 2010, when McBride made arrangements to sell the work, it was revealed to be a forgery. She sued the auction house (Christie's), the agent who had helped her bid on the work, the original seller of the work and the seller's director.

Her claim against Christie's was the strongest. It turned out Christie's had learned of doubts surrounding the picture's authenticity shortly after the May 2000 auction, but failed to inform McBride or her agent. As a result of this deceptive inaction, Christie's was unable to rely on its Conditions of Business which entitle a buyer to seek a refund on a forgery only within five years of the purchase. Christie's was held liable for unconscionable conduct, deceit and money had and received, as well as for misleading or deceptive conduct, for 85% of McBride's total loss.

The seller and McBride's agent were held liable for 15% and 5% respectively, on account of their misleading conduct. Both had made representations to McBride that the work was by Tucker. This was enough to be 'misleading': the representation did not have to be *knowingly* false, only false and misleading or likely to mislead.

There had been earlier coverage of the trial in the **UK press**, highlighting McBride's flamboyant art collecting tendencies and her particular single-mindedness. The result seems only to have made waves thus far in **Australia**.