Doré *v*. Verdun (City), [1997] 2 S.C.R. 862

**City of Verdun** *Appellant*

*v.*

**Gilles Doré** *Respondent*

and

**Casper Bloom, Martin Boodman,**

**John E. C. Brierley, Allan R. Hilton,**

**Nicholas Kasirer and Danielle M. St-Aubin** *Interveners*

**Indexed as: Doré *v*. Verdun (City)**

File No.: 24860.

1997: January 27; 1997: July 10.

Present: Lamer C.J. and La Forest, L’Heureux-Dubé, Sopinka and Gonthier JJ.

on appeal from the court of appeal for quebec

 *Municipal law -- Civil remedies against municipality -- Bodily injury -- Prescription -- Victim injured in fall on city sidewalk -- Whether three-year prescription provided for in Civil Code of Québec in respect of bodily injury applicable -- Whether art. 2930 of Civil Code of Québec takes precedence over s. 585 of Cities and Towns Act -- Civil Code of Québec, S.Q. 1991, c. 64, arts. 300, 2930 -- Cities and Towns Act, R.S.Q., c. C-19, s. 585.*

 *Prescription -- Bodily injury -- Municipality -- Victim injured in fall on city sidewalk -- Whether three-year prescription provided for in Civil Code of Québec in respect of bodily injury applicable -- Whether art. 2930 of Civil Code of Québec takes precedence over s. 585 of Cities and Towns Act -- Civil Code of Québec, S.Q. 1991, c. 64, arts. 300, 2930 -- Cities and Towns Act, R.S.Q., c. C-19, s. 585.*

 *Interpretation -- Civil Code of Québec -- Usefulness of Minister of Justice’s commentaries in interpreting provisions of Civil Code of Québec -- Parliamentary history.*

 *Interpretation -- Civil Code of Québec -- Difference between English and French versions -- Scope of English version of provision narrower than that of French version -- Interpretation principle based on meaning shared by both versions rejected -- French version preferred to English version because consistent with legislature’s intention -- Civil Code of Québec, S.Q. 1991, c. 64, art. 2930.*

 *Interpretation -- Legislation -- Conflict -- Provision of Cities and Towns Act applicable “any provision of law to the contrary notwithstanding” -- Subsequent provision of Civil Code of Québec on same subject applicable “Notwithstanding any stipulation to the contrary” -- Whether more recent provision takes precedence -- Civil Code of Québec, S.Q. 1991, c. 64, art. 2930 -- Cities and Towns Act, R.S.Q., c. C-19, s. 585.*

 On January 28, 1994, the respondent fell on one of the sidewalks of the appellant city and broke his right leg. On February 14, he sent the appellant a default notice. The appellant denied any liability and, in June 1994, the respondent brought an action against the appellant seeking damages for bodily injury. The appellant filed a motion to dismiss the respondent’s action on the ground that the respondent had not sent it notice in writing within 15 days from the date of the accident as required by s. 585 of the *Cities and Towns Act* (“*C.T.A.*”).The Superior Court dismissed the motion, concluding that art. 2930 *C.C.Q.* takes precedence over s. 585. Article 2930 provides that “Notwithstanding any stipulation to the contrary, where an action is founded on the obligation to make reparation for bodily injury caused to another, the requirement that notice be given prior to the bringing of the action or that proceedings be instituted within a period not exceeding three years does not hinder a prescriptive period provided for” in art. 2925 *C.C.Q.* The Superior Court’s decision was affirmed by the Court of Appeal.

 *Held*: The appeal should be dismissed.

 Article 300 *C.C.Q.*, which sets out the general framework of the law applicable to legal persons established in the public interest, including municipalities, states two principles: first, such persons are primarily governed by “the special Acts by which they are constituted and by those which are applicable to them”; second, the *Civil Code of Québec* is applicable where such Acts “require to be complemented” with regard to matters falling under private law, particularly the status and property of such persons and their relations with other persons. Article 1376 *C.C.Q.* complements art. 300 and specifies that where obligations are concerned, the *Civil Code of Québec* is the *jus commune* applicable to legal persons. Likewise, art. 2877 *C.C.Q.* indicates that the general principles of prescription are applicable to legal persons established in the public interest “subject to express provision of law”. However, the fact that the *jus commune* is supplementary in nature does not mean that the legislature cannot give a specific provision of the *Civil Code of Québec* precedence over special Acts applicable to municipalities, provided that it expresses a sufficiently clear and precise intention to that effect. That is what it has done in art. 2930 *C.C.Q.*, whichis applicable to municipalities despite an explicit provision on the same subject in the *Cities and Towns Act* -- s. 585.

 In enacting art. 2930 *C.C.Q.*, the legislature clearly expressed its intention through the wording of the article. Article 2930 must take precedence over “any stipulation to the contrary” (“*toute disposition contraire*”). Despite the use of the word “stipulation” in the English version of the article, the legislature did not intend to limit the article’s scope to contractual exclusions. Since art. 2884 *C.C.Q.* already provides that prescriptive periods are of public order and cannot be altered by agreement, it must be concluded that the legislature’s intention in art. 2930 was indeed to cover both legislative and contractual provisions and that an unfortunate word choice was made in the English version. Concluding otherwise would make art. 2930 largely redundant. Article 2930 deals with prescription, which is essentially a matter of private law. It is a mandatory provision of public order. It is an exception to the first principle set out in art. 300 *C.C.Q.* and therefore takes precedence over s. 585 *C.T.A.* This interpretation of art. 2930 is consistent with the legislature’s intention in the new Code, namely to ensure that fair compensation is provided for bodily injury, which is a form of interference with a person’s physical integrity. Article 2930 must be interpreted broadly so that its purpose -- putting an end to the injustices that resulted from the notice requirement in s. 585 -- can be achieved. Finally, even though s. 585 states that the prior notice requirement is applicable “any provision of law to the contrary notwithstanding”, art. 2930 must prevail, since by expressly giving art. 2930 precedence -- “Notwithstanding any stipulation to the contrary” -- the legislature has specified that the subsequent general legislation derogates from the prior special Act.

 The interpretation given to art. 2930 *C.C.Q.* is also consistent with the Minister of Justice’s commentaries on the article. While the interpretation of the *Civil Code of Québec* must be based first and foremost on the wording of its provisions, there is no reason to systematically disregard the Minister’s commentaries, since they can sometimes be helpful in determining the legislature’s intention, especially where the wording of the article is open to differing interpretations. However, the commentaries are not an absolute authority. They are not binding on the courts, and their weight can vary, *inter alia* in light of other factors that may assist in interpreting the provisions of the *Civil Code of Québec*.

**Cases Cited**

 **Referred to:**  *Hilder v. Dexter*, [1902] A.C. 474; *Laurentide Motels Ltd. v. Beauport (City)*, [1989] 1 S.C.R. 705; *Canadian Indemnity Co. v. Canadian Johns-Manville Co.*, [1990] 2 S.C.R. 549; *Attorney General of Quebec v. Blaikie*, [1979] 2 S.C.R. 1016; *Reference re Manitoba Language Rights*, [1985] 1 S.C.R. 721; *The Queen v. Compagnie Immobilière BCN Ltée*, [1979] 1 S.C.R. 865; *Construction Gilles Paquette ltée v. Entreprises Végo ltée*, [1997] 2 S.C.R. 299.

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*Charter of human rights and freedoms*, R.S.Q., c. C-12, s. 1 [repl. 1982, c. 61, s. 1].

*Charter of the French language*, R.S.Q., c. C-11, s. 7 [repl. 1993, c. 40, s. 1].

*Cities and Towns Act*, R.S.Q., c. C-19, s. 585 [am. 1984, c. 47, s. 213].

*Civil Code of Lower Canada*, art. 356.

*Civil Code of Québec*, Bill 125, 1st Sess., 34th Leg., introduced on December 18, 1990, art. 2914.

*Civil Code of Québec*, S.Q. 1991, c. 64, preliminary provision, arts. 3, 10, 300, 454, 916, 1345, 1376, 1464, 1474, 1609, 1615, 1616, 1672, 2877, 2884, 2925, 2930, 2964.

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 APPEAL from a judgment of the Quebec Court of Appeal, [1995] R.J.Q. 1321, [1995] Q.J. No. 433 (QL), affirming a judgment of the Superior Court, [1994] R.J.Q. 2984, [1994] Q.J. No. 1152 (QL). Appeal dismissed.

 *Pierre Le Page*, for the appellant.

 *Daniel Paquin*, for the respondent.

 *Colin K. Irving*, for the interveners.

 English version of the judgment of the Court delivered by

1. Gonthier J. -- This appeal concerns the application to municipalities of art. 2930 of the *Civil Code of Québec*, S.Q. 1991, c. 64 (“*C.C.Q.*”), which provides that, notwithstanding any stipulation to the contrary, the *Civil Code*’s three-year prescriptive period in respect of bodily injury cannot be hindered, and the precedence of that article over s. 585 of the *Cities and Towns Act*, R.S.Q., c. C-19 (“*C.T.A.*”), which requires that, within 15 days of the date of an accident, notice be given that an action seeking reparation for bodily injury is to be brought against a municipality, failing which the municipality cannot be found liable.

I - Facts

1. On Friday, January 28, 1994, the respondent fell on one of the sidewalks of the appellant City and broke his right leg. On Monday, February 14, 1994, he sent the appellant a default notice by registered mail, which the appellant received on Wednesday, February 16. In April 1994, the appellant sent the respondent a letter denying any liability. On June 2, 1994, the respondent brought an action against the appellant seeking damages for bodily injury. The appellant filed a motion to dismiss the respondent’s action on the ground that the respondent had not sent it notice in writing within 15 days from the date of the accident as required by s. 585 *C.T.A.* The Superior Court dismissed the appellant’s motion, and its decision was affirmed by the Court of Appeal.

II - Judgments Below

*Superior Court*, [1994] R.J.Q. 2984

1. Deslongchamps J. held that under art. 2930 *C.C.Q.*, neither failure to give the notice referred to in s. 585 *C.T.A.* nor the notice’s irregularity can be raised against a person who has suffered bodily injury and is seeking reparation. He based this conclusion on the wording of art. 2930 *C.C.Q.* itself (at pp. 2986-87):

 [translation] The very terms of article 2930, which is a mandatory provision of public order, clearly demonstrate the legislature’s intention to standardize prescription as regards reparation for bodily injury, regardless of the debtor of the obligation or the source of the action.

. . .

 Limiting article 2930’s application to contractual provisions or to the provisions of the *Civil Code of Québec* alone would be contrary to the clear terms of that article and would negate the very broad, mandatory scope of its application.

He added that art. 300 *C.C.Q.* provides that the *Civil Code*, as the *jus commune*, applies on a supplementary basis to legal persons established in the public interest, which means that art. 2930 *C.C.Q.*, a mandatory provision of public order, is applicable to municipalities.

*Court of Appeal*, [1995] R.J.Q. 1321

 Baudouin J.A. (Rousseau-Houle J.A. concurring)

1. Baudouin J.A. agreed with the Superior Court that art. 2930 *C.C.Q.* takes precedence over the parts of s. 585 *C.T.A.* that hinder the *Civil Code*’s three-year prescriptive period in respect of bodily injury. He noted that this is how the Minister of Justice interpreted the article in his commentaries (*Commentaires du ministre de la Justice: Le Code civil du Québec -- Un mouvement de société* (1993), vol. II, at p. 1838 (“Minister’s commentaries”)). Baudouin J.A. acknowledged that the interpretation of an enactment must be based first and foremost on the wording of the enactment itself and that the Minister’s commentaries do not have any absolute value, but he added that there is no justification for systematically disregarding them (at p. 1327):

[translation] On the contrary, they can be of use where there are conflicting interpretations, as here, in helping the courts assess the legislature’s intention and understand its viewpoint more clearly.

1. Baudouin J.A. rejected the appellant’s argument that the use of the word “stipulation” in the English version of art. 2930 *C.C.Q.* shows that the legislature wanted to limit the article’s scope to contractual exclusions. He based this conclusion on art. 2884 *C.C.Q.*, which already explicitly sets out that rule, and on the fact that the English version [translation] “is . . . merely a translation of the original French version. As the Italian proverb puts it so well, ‘traduttore, traditore’ (the translator is a traitor)” (p. 1327).
2. According to Baudouin J.A., pursuant to the preliminary provision and arts. 1376 and 300 of the *Civil Code of Québec*, art. 2930 *C.C.Q.* applies to legal persons established in the public interest, and the fact that art. 2930 is a mandatory provision of public order means that it takes precedence over s. 585 *C.T.A.* (at p. 1328):

 [translation] Thus, the *Civil Code of Québec*, like the *Charter of human rights and freedoms*, is a fundamental law. It is the *jus commune* applicable to everyone, even legal persons established in the public interest. In the case before the Court, even a narrow, literal interpretation of article 2930 C.C.Q. gives it a general scope. Moreover, this article was enacted after section 585 of the *Cities and Towns Act*. Accordingly, given the general nature of the terms used by the legislature, I find it difficult to conclude that a specific provision enacted before the *Civil Code of Québec* would continue to apply.

1. Finally, Baudouin J.A. found that the legislature’s intention in the *Civil Code of Québec* was to promote fair compensation for bodily injury and that art. 2930 *C.C.Q.* is just one expression of that intention.
2. In his reasons, Baudouin J.A. also commented on an alternative issue raised by the respondent. Because of my conclusion on the main issue, I will not deal with that alternative issue.

 Vallerand J.A.

1. Vallerand J.A. concurred in Baudouin J.A.’s opinion, except his comments on the alternative issue, which Vallerand J.A. felt had become moot.

III - Analysis

1. Section 585 *C.T.A.* reads as follows:

**585.** (1) If any person claim or pretend to have suffered bodily injury by any accident, for which he intends to claim damages from the municipality, he shall, within fifteen days from the date of such accident, give or cause to be given notice in writing to the clerk of the municipality of such intention, containing the particulars of his claim, and stating the place of his residence, failing which the municipality shall be relieved from any liability for any damages caused by such accident, any provision of law to the contrary notwithstanding.

 (2) In case of any claim for damages to property, moveable or immoveable, a similar notice shall also be given to the clerk of the municipality, within fifteen days, failing which the municipality shall not be liable for any damages, any provision of law to the contrary notwithstanding.

 (3) No such action shall be instituted before the expiration of fifteen days from the date of the service of such notice.

 (4) The failure to give such notice shall not, however, deprive any victim of such accident of his right of action, if he prove that he was prevented from giving such notice for any reason deemed sufficient by the court or judge.

 The absence of notice or its irregularity because late, insufficient or otherwise defective, must be set up by exception to dismiss action or by dilatory exception, as the case may be, and not by a plea to the merits. Failure to invoke such means within the delays and according to the rules established by the Code of Civil Procedure, constitutes a waiver of such irregularity.

 No contestation of the facts may be inscribed until judgment is rendered on the said exception to dismiss action or on the said dilatory exception and such judgment must dispose thereof and not reserve them for the merits.

 (5) No action in damages shall lie unless such action be instituted within six months after the day on which the accident happened or the right of action accrued. [Emphasis added.]

 . . .

On December 18, 1991, the Quebec legislature passed the *Civil Code of Québec*, which came into force on January 1, 1994. Article 2930 of the Code provides as follows:

 **2930.** Notwithstanding any stipulation to the contrary, where an action is founded on the obligation to make reparation for bodily injury caused to another, the requirement that notice be given prior to the bringing of the action or that proceedings be instituted within a period not exceeding three years does not hinder a prescriptive period provided for by this Book.

The “prescriptive period provided for by this Book” is set out in art. 2925 *C.C.Q.*:

 **2925.** An action to enforce a personal right or movable real right is prescribed by three years, if the prescriptive period is not otherwise established.

1. Article 2930 *C.C.Q.* has given rise to a great deal of debate among academic authors, *inter alia* between municipal law supporters and civil law supporters. The former argue that art. 2930 *C.C.Q.* cannot have the effect of abolishing the prior notice requirement set out in s. 585 *C.T.A.* in respect of bodily injury, while the latter take the opposite position (see: Y. Duplessis and J. Hétu, “Le nouveau Code civil et la responsabilité municipale: préavis d’action et courtes prescriptions”, (1993) *B.D.M.* 1, at pp. 1-3; J. L’Heureux, “L’effet du *Code civil du Québec* sur les municipalités: les règles générales et leur application” (1995), 36 *C. de D.* 843, at pp. 876-80; J.-L. Baudouin, *Les obligations* (4th ed. 1993), at p. 584; C. Masse, “La responsabilité civile”, in *La réforme du Code civil* (1993), vol. II, 235, at p. 250; M. Tancelin, *Des obligations* \_\_ *Les techniques d’exécution et d’extinction* (1994), at pp. 156-57; D. Dumais, “La prescription”, in Collection de droit, vol. 5, *Obligations, contrats et prescription* (1996), 413, at pp. 427-28). It is now up to this Court to resolve that debate.

A. *Commentaries of the Minister of Justice*

1. Before dealing with the interpretation of the *Civil Code*, it is appropriate to consider what weight should be given to the Minister’s commentaries. The appellant, relying mainly on common law authorities, argued in this Court that the commentaries should not be considered in interpreting the *Civil Code* (*Hilder v. Dexter*, [1902] A.C. 474, at p. 477; *Maxwell on the Interpretation of Statutes* (12th ed. 1969), at p. 28).
2. The Minister’s commentaries were published after the *Civil Code of Québec* was enacted. Strictly speaking, therefore, they are not part of the parliamentary history surrounding the enactment of the *Civil Code*, unlike the *Report of the Commissioners for the Codification of the Laws of Lower Canada relating to Civil Matters* (1865), which has been used by this Court to support its interpretation of provisions of the *Civil Code of Lower Canada* (see: *Laurentide Motels Ltd. v. Beauport (City)*, [1989] 1 S.C.R. 705, at p. 719; *Canadian Indemnity Co. v. Canadian Johns-Manville Co.*, [1990] 2 S.C.R. 549). Nevertheless, the origin of the Minister’s commentaries gives them a special status. They were issued by the Department of Justice and were generally based on the parliamentary history. In “Le recours aux travaux préparatoires dans l’interprétation du nouveau Code civil du Québec”, in *Le nouveau Code civil: interprétation et application* \_\_ *Les journées Maximilien-Caron 1992* (1993), 149, Professor Masse stated the following on this point at p. 159:

[translation] The Department of Justice intends to publish detailed, official, article-by-article commentaries in a few months on the meaning of the new provisions and their relationship to the former law. These commentaries will be general but based, *inter alia*, on the work of the C.C.R.O., the debates of parliamentary and drafters’ committees, the documents used by MNAs and drafters during their work and the research conducted since. The rich parliamentary history will therefore not be lost, and these commentaries can serve as theoretical writings. [Emphasis added.]

1. In the introduction of the Minister’s commentaries, vol. I, Minister of Justice Gil Rémillard explained their objective as follows at pp. VIII-IX:

[translation] The commentaries on the Civil Code of Québec are meant to provide information on the legislature’s intentions, the context of the new legislative provisions and the sources that were directly considered.

 . . .

 The legislature wanted the Civil Code of Québec to reflect the social contract of our free and democratic society. These commentaries attest to that and will be an invaluable reference in interpreting the Code in the context of the necessary changes to one of the most fundamental laws of our legal system.

Of course, the interpretation of the *Civil Code* must be based first and foremost on the wording of its provisions. That said, however, and as noted by Baudouin J.A. in the judgment under appeal, there is no reason to systematically disregard the Minister’s commentaries, since they can sometimes be helpful in determining the legislature’s intention, especially where the wording of the article is open to differing interpretations (at p. 1327). However, the commentaries are not an absolute authority. They are not binding on the courts, and their weight can vary, *inter alia* in light of other factors that may assist in interpreting the *Civil Code*’s provisions.

B. *Interpretation of the Civil Code of Québec*

 (1) Application of the *Civil Code* to Legal Persons Established in the Public Interest

1. The preliminary provision of the *Civil Code of Québec* reads as follows:

 The Civil Code of Québec, in harmony with the Charter of human rights and freedoms and the general principles of law, governs persons, relations between persons, and property.

 The Civil Code comprises a body of rules which, in all matters within the letter, spirit or object of its provisions, lays down the *jus commune*, expressly or by implication. In these matters, the Code is the foundation of all other laws, although other laws may complement the Code or make exceptions to it.

This provision explicitly states that the *Civil Code* is the *jus commune* of Quebec. Thus, unlike statute law in the common law, the *Civil Code* is not a law of exception, and this must be taken into account in interpreting it. It must be interpreted broadly so as to favour its spirit over its letter and enable the purpose of its provisions to be achieved. (In this regard, see: J.-L. Bergel, “Spécificité des codes et autonomie de leur interprétation”, in *Le nouveau Code civil: interprétation et application* \_\_ *Les journées Maximilien-Caron 1992*, *supra*, 3.)

1. The *Civil Code of Québec* sets out a number of guiding legal principles. According to the preliminary provision, the Code is also the foundation of all other laws dealing with matters to which the Code relates, although such laws may complement the Code or make exceptions to it. It is therefore the foundation of all statutes that draw mainly or incidentally on civil law concepts. It is also applicable to the aspects of legal persons established in the public interest that come under the *Civil Code*. (In this regard, see: J.-M. Brisson, “Le Code civil, droit commun?”, in *Le nouveau Code civil: interprétation et application* \_\_ *Les journées Maximilien-Caron 1992*, *supra*, 293, at pp. 312-14.)
2. Article 300 *C.C.Q.* sets out the general framework of the law applicable to legal persons established in the public interest:

 **300.** Legal persons established in the public interest are primarily governed by the special Acts by which they are constituted and by those which are applicable to them; legal persons established for a private interest are primarily governed by the Acts applicable to their particular type.

 Both kinds of legal persons are also governed by this Code where the provisions of such Acts require to be complemented, particularly with regard to their status as legal persons, their property or their relations with other persons.

This article clearly states two principles: first, legal persons established in the public interest, including municipalities, are primarily governed by “the special Acts by which they are constituted and by those which are applicable to them”; second, the *Civil Code of Québec* also applies to municipalities where such Acts “require to be complemented” with regard to matters falling under private law. On the latter point, notary J. Hardy, in “Nouveau Code civil, discrétion administrative et responsabilité extracontractuelle de l’État et des personnes morales de droit public: concepts et pratique”, in *Actes de la XIe Conférence des juristes de l’État* (1992), 267, states the following at pp. 298-99:

[translation] [T]he second paragraph of article 300 explicitly subjects legal persons established in the public interest to the new Civil Code, *inter alia* with regard to their “relations with other persons”. Clearly, this is intended to be approximately equivalent to the portion of article 356 [*C.C.L.C.*] that subjects them to the “civil law in their relations, in certain respects, to individual members of society”.

1. Although art. 300 *C.C.Q.* retains the same basic principle, it differs noticeably from art. 356 *C.C.L.C.* The latter provision, which this Court considered in detail in *Laurentide Motels Ltd. v. Beauport (City)*, *supra*, provided as follows:

 **356.** Secular corporations are further divided into political and civil; those that are political are governed by the public law, and only fall within the control of the civil law in their relations, in certain respects, to individual members of society.

 . . .

It can be seen that the wording of art. 300 *C.C.Q.* is more generous than that of its predecessor. While art. 356 *C.C.L.C.* stated that municipalities could fall, in certain respects, within the control of the *Civil Code of Lower Canada* in a specific area, namely their relations to members of society, the new Code instead provides that municipalities are also governed by the *Civil Code of Québec* where the special Acts by which they are constituted need to be complemented, particularly with regard to their status, property and relations with other persons. This complementary role given to the *Civil Code of Québec* explicitly recognizes its status as the *jus commune* in private law matters. The use of the term “particularly” justifies the conclusion that the list of areas in which the *Civil Code* can complement special Acts is open-ended. The Code’s complementary role does not preclude the possibility that a provision of the Code might limit the application of provisions of special Acts applicable to municipalities if the legislature expressed a sufficiently clear and precise intention to that effect.

1. Thus, art. 300 *C.C.Q.* opens the door to a greater integration of private law rules into the law applicable to municipalities. This interpretation is supported by the Minister’s commentaries, vol. I, in which the following is stated about art. 300 *C.C.Q.* at pp. 204-5:

[translation] As well, by providing that the special Acts applicable to such persons are complemented by the Code with regard to their property and their relations with other persons, the article is stating that the *jus commune* applicable to those persons is the civil law, which means the law of property, obligations, real security, evidence, prescription, etc.

This article makes it possible to apply general private law rules to legal persons established in the public interest. Where it was appropriate to set out specific rules, *inter alia* with respect to property and liability, those rules were included in the relevant books.

1. Article 300 *C.C.Q.* must be read in conjunction with art. 1376 *C.C.Q.*, which specifically concerns Book Five of the Code, “Obligations”:

 **1376.** The rules set forth in this Book apply to the State and its bodies, and to all other legal persons established in the public interest, subject to any other rules of law which may be applicable to them.

This provision complements art. 300 *C.C.Q.*; it specifies that where obligations are concerned, the *Civil Code* is the *jus commune* applicable to legal persons. (See in this regard: P.-A. Côté, “La détermination du domaine du droit civil en matière de responsabilité civile de l’Administration québécoise \_\_ Commentaire de l’arrêt Laurentide Motels” (1994), 28 *R.J.T*. 411, at p. 423.) Moreover, the Minister’s commentaries, vol. I, on this provision note the following at p. 833:

[translation] For legal persons established in the public interest, this article complements the general provisions set out in article 300 of the book on *Persons* concerning the subjection of such legal persons to the rules of the Code.

1. Other provisions of the *Civil Code of Québec* also explicitly provide that the Code is applicable to the state in private law matters (see arts. 916, 1464, 1672, 2877 and 2964 *C.C.Q.*). For example, as regards prescription, to which this case relates, art. 2877 *C.C.Q.* provides as follows:

 **2877.** Prescription takes effect in favour of or against all persons, including the State, subject to express provision of law.

This last provision is another factor that shows that the general principles of prescription are applicable to legal persons established in the public interest, “subject to express provision of law”. However, as I noted in analysing art. 300 *C.C.Q.*, the fact that the *jus commune* is supplementary in nature does not mean that the legislature cannot give a specific provision of the *Civil Code* precedence over special Acts applicable to municipalities, provided that it expresses a sufficiently clear and precise intention to that effect (para. 18).

 (2) Article 2930 *C.C.Q.*

1. At this point in the analysis, it is appropriate to reproduce both official versions of art. 2930 *C.C.Q.*:

 **2930.** Notwithstanding any stipulation to the contrary, where an action is founded on the obligation to make reparation for bodily injury caused to another, the requirement that notice be given prior to the bringing of the action or that proceedings be instituted within a period not exceeding three years does not hinder a prescriptive period provided for by this Book.

 **2930.** *Malgré toute disposition contraire, lorsque l'action est fondée sur l'obligation de réparer le préjudice corporel causé à autrui, l'exigence de donner un avis préalablement à l'exercice d'une action, ou d'intenter celle-ci dans un délai inférieur à trois ans, ne peut faire échec au délai de prescription prévu par le présent livre.*

The legislature has clearly expressed its intention through the wording of the article. Article 2930 *C.C.Q.* must take precedence over “any stipulation [‘*disposition*’ in the French version] to the contrary”.

1. The appellant argued at length in this Court that by using the term “stipulation”, which has an exclusively contractual connotation, in the English version rather than the term “provision”, which generally has a legislative connotation, the legislature’s intention was to limit the article’s scope to contractual exclusions. Since the term “*disposition*” used in the French version of art. 2930 *C.C.Q.* can have either a legislative or a contractual connotation, the appellant is relying on an interpretation principle applicable to bilingual statutes, namely that they should be interpreted by finding the meaning shared by both versions, that is “the more narrow of the two” meanings (P.-A. Côté, *The Interpretation of Legislation in Canada* (2nd ed. 1991), at p. 276).
2. This argument was rejected by Baudouin J.A. in the judgment under appeal, partly on the basis that the English version of the *Civil Code* is [translation] “merely a translation of the original French version” (p. 1327). With respect, although what he stated is unfortunately true, it cannot be used to reject the argument made by the appellant. Section 7 of the *Charter of the French language*, R.S.Q., c. C-11, provides that the French and English versions of Quebec statutes “are equally authoritative”. This is in accordance with s. 133 of the *Constitution Act, 1867* which requires that the statutes of the legislature of Quebec be enacted in both official languages and that both versions be equally authoritative and have the same status (see: *Attorney General of Quebec v. Blaikie*, [1979] 2 S.C.R. 1016; *Reference re Manitoba Language Rights*, [1985] 1 S.C.R. 721).
3. That said, the principle of preferring the interpretation that leads to a shared meaning is, in any event, not absolute. The Court can reject that meaning if it seems contrary to the legislature’s intention in light of the other principles of interpretation.  *R. v. Compagnie Immobilière BCN Ltée*, [1979] 1 S.C.R. 865, is a good example of a case in which this Court preferred the version that was broader in scope because it was consistent with the legislator’s intention. At the time the decision was rendered, s. 8 of the *Official Languages Act*, R.S.C. 1970, c. O-2, was in force, and para. (2)(*b*) of that section provided that the meaning shared by the English and French versions was to be preferred. Pratte J., writing for the Court, stated the following at pp. 871-72 and 874-75:

The rule . . . expressed [in s. 8(2)(*b*)] is a guide; it is one of several aids to be used in the construction of a statute so as to arrive at the meaning which, “according to the true spirit, intent and meaning of an enactment, best ensures the attainment of its objects” (s. 8(2)(*d*)). The rule of s. 8(2)(*b*) should not be given such an absolute effect that it would necessarily override all other canons of construction. In my view therefore the narrower meaning of one of the two versions should not be preferred where such meaning would clearly run contrary to the intent of the legislation and would consequently tend to defeat rather than assist the attainment of its objects.

 . . .

 A detailed examination of these provisions has convinced me that . . . [emphasis should not be placed on] the fact that in a limited number of cases the French text taken in isolation would convey a more restrictive meaning. Such a narrow meaning cannot however be held to control the much broader meaning of the English expressions, especially when it is apparent that such was not the intent, quite the contrary. [Emphasis added.]

(See also: Côté, *The Interpretation of Legislation in Canada*, *supra*, at pp. 276-79.)

1. It is true that an attempt to give the term “stipulation” a legislative connotation is an improper use of that term. As a general rule, when the legislature uses the term “*disposition(s)*” in the French version of the *Civil Code*, it uses the term “provision(s)”, which has a legislative connotation, in the English version. However, it is interesting to note that there is just one other provision, art. 1345 *C.C.Q.*, in which the legislature has used the term “stipulation” in the English version to correspond to the term “*disposition*” in the French version. In that article, the context makes it clear that the legislature intended to give these terms a contractual connotation. Elsewhere in the Code, the legislature has consistently and on numerous occasions used the term “*stipulation*” in the French version where the English version uses “stipulation”. It is therefore legitimate to ask why, in art. 2930 *C.C.Q.*, the legislature did not use the term “*stipulation*” in the French version if it wanted the article to have only a contractual connotation, as it did in the rest of the *Civil Code* (except art. 1345 *C.C.Q.*). For the reasons that follow, it must be concluded that the legislature’s intention was indeed to cover both legislative and contractual provisions and that an unfortunate word choice was made in the English version.
2. As noted by Baudouin J.A. in the decision under appeal, the decisive reason for this conclusion is art. 2884 *C.C.Q.*:

 **2884.** No prescriptive period other than that provided by law may be agreed upon.

This article already provides that prescriptive periods are of public order and cannot be altered by agreement. If it were to be concluded that the term “*disposition*” in the French version of art. 2930 *C.C.Q.* has only a contractual connotation, the article would be largely redundant. If the legislature had intended art. 2930 *C.C.Q.* to cover only contractual provisions, it is doubtful that it would have taken the trouble to repeat needlessly that the three-year prescriptive period set out in the *Civil Code* cannot be reduced by agreement when it had already clearly established that principle in art. 2884 *C.C.Q.* The term “*disposition*” therefore cannot be limited to contracts; it must also cover legislation. This interpretation is also consistent with the Minister’s commentaries, vol. II, on art. 2930 *C.C.Q.*, at p. 1838:

[translation] The article [2930 *C.C.Q.*] changes the scope of certain rules, *inter alia* in municipal law, where failure to give notice within a very short period of time means that the right of action is lost. [Emphasis added.]

1. However, must it be concluded, as stated in the Minister’s commentaries, that art. 2930 *C.C.Q.* applies to municipalities despite an explicit provision on the same subject in the *Cities and Towns Act*? The answer must be yes, because, in my view, art. 2930 *C.C.Q.* overrides the first principle set out in art. 300 *C.C.Q.*, namely that the provisions of special Acts must be applied before applying the provisions of the *Civil Code* (para. 17).
2. Prescription is essentially a matter of private law. By enacting s. 585 *C.T.A.*, the legislature created an exception, in a special Act, to the private law rules that would otherwise have been applicable. With the passing of the new *Civil Code*, the legislature enacted a specific provision on prescription in respect of bodily injury, art. 2930 *C.C.Q.*, and explicitly gave it precedence over “any stipulation to the contrary”. This is a mandatory provision of public order. It is an exception to the first principle set out in art. 300 *C.C.Q.* and therefore takes precedence over s. 585 *C.T.A.* I therefore agree with Baudouin J.A.’s conclusion on this point at p. 1328:

 [translation] Third, article 300 C.C.Q., which continues to generally subject legal persons established in the public interest to their special Acts, also provides in its second paragraph that they are governed by the provisions of the *Civil Code of Québec*. I would also note, turning the argument around, that it would conversely be surprising if the expression “notwithstanding any stipulation to the contrary” could be interpreted as not creating an exception to the first paragraph of article 300 C.C.Q. [Emphasis added.]

1. This interpretation of art. 2930 *C.C.Q.* is consistent with the legislature’s intention in the new Code, namely to ensure that fair compensation is provided for bodily injury, which is a form of interference with a person’s physical integrity. This intention is evident from the *Civil Code of Québec*’s provisions as a whole, and in particular: art. 454 *C.C.Q.*, which provides that the right to claim damages for corporal injury remains the private property of each spouse; art. 1474 *C.C.Q.*, which provides that liability for bodily injury may not be limited or excluded; art. 1609 *C.C.Q.*, which provides that an acquittance, transaction or statement obtained from a person who has sustained bodily injury within 30 days of the act that caused the injury is without effect; art. 1615 *C.C.Q.*, which, on an exceptional basis, authorizes the courts to review the compensation awarded for bodily injury; and art. 1616 *C.C.Q.*, which provides that compensation for bodily injury sustained by a minor can be in the form of an annuity. Protection of the physical integrity of the person is one of the fundamental values of the *Civil Code of Québec*, art. 10 of which states that “[e]very person is inviolable and is entitled to the integrity of his person” (see also art. 3 *C.C.Q.*). This interpretation is also consistent with the values of the *Charter of human rights and freedoms*, R.S.Q., c. C-12, s. 1 of which protects the right of every human being to personal inviolability. Article 2930 *C.C.Q.* is just one expression of the legislature’s support for this concept.
2. The appellant referred to a previous version of the Minister’s commentaries dated May 1992. In that version, the commentary on art. 2930 *C.C.Q.* did not contain the following sentence concerning municipalities:

[translation] The article changes the scope of certain rules, *inter alia* in municipal law, where failure to give notice within a very short period of time means that the right of action is lost.

This sentence was added later, since it appears in the final version of the Minister’s commentaries, which was the only one published by Les Publications du Québec in 1993. Relying on the previous version, the appellant argued that art. 2930 *C.C.Q.* did not apply to municipalities when it was enacted and that the Minister tried to alter its scope by changing his commentaries.

1. The Minister gave the following explanation in the introduction to his commentaries, vol. I, at p. VIII:

 [translation] Following the passage of the Civil Code of Québec on December 18, 1991, the commentaries were reviewed in full to ensure that the entire document was consistent and to take account, primarily, of amendments to the initial bill and observations made during the work of the Committee on Institutions.

The version relied on by the appellant was merely a preliminary document.

1. I cannot accept the appellant’s argument. In my view, by adding to the commentaries the Minister merely clarified the intention that the legislature had when it drafted art. 2930 *C.C.Q.* This conclusion is based on the interpretation I have already given of art. 2930 *C.C.Q.* and is confirmed by the parliamentary history of that article. Parliamentary history consists of “preliminary documents pertaining to the preparation of a statute” (Côté, *The Interpretation of Legislation in Canada*, *supra*, at p. 353). (On the sources of the parliamentary history of the *Civil Code of Québec*, see: Masse, “Le recours aux travaux préparatoires dans l’interprétation du nouveau Code civil du Québec”, *supra*, at p. 151.)
2. Article 2930 *C.C.Q.* is new law; it has no equivalent in the *Civil Code of Lower Canada*. It first appeared as art. 3111 of the draft bill entitled *An Act to add the reformed law of evidence and of prescription and the reformed private international law to the Civil Code of Québec*, 2nd Sess., 33rd Leg., introduced on June 16, 1988. On October 15, 1990, the Minister of Justice tabled a paper relating to the introduction of the draft *Civil Code of Québec*, and the paper was later reproduced in a legal journal with the authorization of Les Publications du Québec: “Présentation du projet du Code civil du Québec” (1991), 22 *R.G.D.* 5. In the paper, the Minister stated the following about art. 3111 at p. 67:

[translation] Thus, it should be noted that the proposed article 3111 provided that, “[n]otwithstanding any stipulation to the contrary”, an action seeking reparation for corporal damage is only prescribed by three years and is not subject to prior notice. This will change the prescriptive periods for the liability of municipalities and exempt individuals from the time limits set out in that legislation after which rights are lost. [Emphasis added.]

1. After Bill 125 on the *Civil Code of Québec* was introduced on December 18, 1990, the Minister of Justice tabled a general document in May 1991 that explained [translation] “the content of the ten books [making up] the *Civil Code of Québec* in a simple, concise manner”: *La réforme du Code civil*: *Quelques éléments du projet de loi 125 présenté à l’Assemblée nationale le 18 décembre 1990*, preface. In Bill 125, art. 3111 was renumbered as 2914. In the section dealing with the book on prescription, the Minister commented as follows at p. 35:

[translation] An action seeking reparation for bodily injury or moral or material damage will be prescribed by three years from the time the injury or damage appears. An action against a municipality for reparation for bodily injury can no longer be dismissed because of failure to give prior notice.

1. The provision under consideration here was also discussed during the parliamentary debates of the Subcommittee on Institutions, which studied the provisions of Bill 125 in detail (*Journal des débats*, No. 29, December 4, 1991). Professor Claude Masse, an adviser for the Official Opposition, and Louise Harel, MNA for Hochelaga-Maisonneuve and spokesperson for the Official Opposition, stated the following, at SCI-1193:

 [translation] Mr. Masse: . . . Second, I think it’s extremely important to take note of article 2914, which, in the case of actions in respect of bodily injury, makes it possible to put an end to strategies used by municipal or public bodies that, for all practical purposes, resulted in individuals losing their right of action if they did not give certain notices. This doesn’t make it any easier to prove the rights or claims, but at least the Civil Code will now take precedence over some provisions that were literally graveyards for actions, particularly in the area of municipal liability.

 . . .

 Ms. Harel: Perhaps I can just add something, Mr. Chairman, about the extent to which these provisions sometimes found in municipal law can deprive people of their right to obtain reparation for bodily injury caused to them. In such cases, the prescriptive period will now be three years. This will be known. The period will be three years, and it can even begin on the day the injury appears. So it will be important for this to be known as well. [Emphasis added.]

1. Parliamentary history “must be read with caution, because [it is] not always a reliable source for the legislature’s intention” (*Construction Gilles Paquette ltée v. Entreprises Végo ltée*, [1997] 2 S.C.R. 299, at para. 20). In the case at bar, the parliamentary history makes a number of references to the scope of art. 2930 *C.C.Q.* and even expresses a unanimous intention on the part of the legislators. It also shows the origins of the final version of the Minister’s commentaries on art. 2930 *C.C.Q.* and confirms the correctness of the interpretation given.
2. Professors Duplessis and Hétu, in “Le nouveau Code civil et la responsabilité municipale: préavis d’action et courtes prescriptions”, *supra*, express the following opinion at p. 2:

[translation] [I]n the case of an action in respect of bodily injury, article 2930 states that the requirement that notice be given “does not hinder a prescriptive period provided for by this Book”. In our view, the notice requirement has never had the effect of hindering prescription; rather, it is a precondition for bringing certain actions for damages. . . .

According to this argument, art. 2930 *C.C.Q.* would not apply to the prior notice provided for in s. 585 *C.T.A.*,since that notice does not hinder prescription.

1. With respect, I do not agree. The very terms of art. 2930 *C.C.Q.* clearly cover the prior notice required by s. 585 *C.T.A.* That section provides that a person who suffers bodily injury by any accident must, within 15 days of the accident, “give or cause to be given notice in writing to the clerk of the municipality of such intention [to claim damages] . . . failing which the municipality shall be relieved from any liability for any damages caused by such accident”, while art. 2930 *C.C.Q.* provides that “the requirement that notice be given prior to the bringing of the action [seeking reparation for bodily injury] . . . does not hinder a prescriptive period provided for by this Book”. The real effect of s. 585 *C.T.A.* is therefore to make it impossible for the victim to sue the municipality if he or she fails to send the required notice. Thus, the failure to give notice or the notice’s irregularity does in fact “hinder a prescriptive period” provided for in the *Civil Code*. Article 2930 *C.C.Q.* must be interpreted broadly so that its purpose can be achieved; the legislature’s intention when it enacted the article was clearly to put an end to the injustices that resulted from the notice requirement in s. 585 *C.T.A.*
2. As I have already pointed out, the prescriptive period that cannot be hindered pursuant to art. 2930 *C.C.Q.* is that set out in art. 2925 *C.C.Q.*, which reads as follows:

 **2925**. An action to enforce a personal right or movable real right is prescribed by three years, if the prescriptive period is not otherwise established.

The appellant argued that s. 585 *C.T.A.* does not violate art. 2930 *C.C.Q.*,since a prescriptive period is, as art. 2925 *C.C.Q.* puts it, otherwise established by s. 585. With respect, this argument seems to me to be clearly unfounded. Article 2930 *C.C.Q.* is unambiguous in this regard: when it comes to bodily injury, “a prescriptive period provided for by this Book” cannot be hindered. There is only one prescriptive period established by the *Civil Code* in respect of bodily injury, and it is the three-year period set out in art. 2925 *C.C.Q.* The wording of art. 2930 *C.C.Q.* therefore means that the prescriptive period in respect of bodily injury cannot be otherwise established, unless at some future time the legislature decides to derogate expressly from art. 2930 *C.C.Q.*

1. The appellant argued in this Court that s. 585 *C.T.A.*, which states that the prior notice requirement is applicable, “any provision of law to the contrary notwithstanding”, must take precedence over art. 2930 *C.C.Q.*, which is a general provision of the *Civil Code*. It based this argument on the rule of interpretation that subsequent general legislation is deemed not to derogate from a prior special Act (“*generalia specialibus non derogant*”). This argument cannot be accepted. The legislature has expressly given art. 2930 *C.C.Q.* precedence: “Notwithstanding any stipulation to the contrary”. It has therefore specified that the subsequent general legislation derogates from the prior special Act. Accordingly, it is not necessary to rely on the “*generalia specialibus non derogant*” rule of interpretation in this case. In *The* *Interpretation of Legislation in Canada*, *supra*, Professor Côté stated the following on this point at pp. 299-300:

 A variety of well-known terms is used. The statute will declare that it applies “notwithstanding” provisions to the contrary.

 . . .

Ordinary rules of interpretation hold that general statutes are set aside by subsequent general legislation, even without a “notwithstanding clause”. Therefore, the only possible interpretation of “notwithstanding any inconsistent provision” is that it applies to prior special legislation, which would otherwise have precedence. By virtue of the rule of effectivity such a clause must be construed as applying to prior special legislation. [Citation omitted.]

Thus, although both provisions in issue here provide that they take precedence, the more recent, art. 2930 *C.C.Q.*, must prevail.

1. The appellant also argued in this Court that if the legislature had intended art. 2930 *C.C.Q.* to take precedence over s. 585 *C.T.A.*, it would have amended s. 585 accordingly, since it repealed or amended a number of provisions of the *Cities and Towns Act* when it enacted the *Act respecting the implementation of the reform of the Civil Code*, S.Q. 1992, c. 57, ss. 467 *et seq.* I believe that this argument must be rejected. The amendments made to the *Cities and Towns Act* by the *Act respecting the implementation of the reform of the Civil Code* were mainly amendments to ensure consistency with the terms of the new Code. As a result, the fact that s. 585 *C.T.A.* was not amended does not necessarily lead to the conclusion that the legislature did not intend art. 2930 *C.C.Q.* to take precedence over that section. In my opinion, the legislature used the words “[n]otwithstanding any stipulation to the contrary” in art. 2930 *C.C.Q.* precisely to give that article precedence over any other special provision and thus avoid having to review all other statutes to determine whether they hindered the three-year prescriptive period in respect of bodily injury. It therefore makes sense that the legislature did not go to the trouble of amending s. 585 *C.T.A.*; it had already done so impliedly by enacting art. 2930 *C.C.Q.* Moreover, s. 585 *C.T.A.* is still useful in part, *inter alia* as regards material damage.
2. Finally, the appellant argued that the interpretation given to art. 2930 *C.C.Q.* is contrary to the legislature’s intention to standardize prescriptive periods, since it results in different treatment for material or moral damage \_\_ which is still subject to the requirements of giving prior notice and bringing an action within six months under s. 585 *C.T.A.* \_\_ than for bodily injury. On this point, I agree completely with Baudouin J.A.’s conclusion at p. 1329:

[translation] [T]here is a very important reason why I cannot agree with [the appellant]. Article 2930 C.C.Q. is just one expression among many in the new *Civil Code of Québec* of the legislature’s intention to promote fair compensation for bodily injury. . . .

 The suggested interpretation . . . therefore seems to me, on the contrary, to be perfectly consistent with the legislature’s intention to encourage adequate compensation for bodily injury and to thereby promote respect for the integrity of the person, which is one of the fundamental bases of the new *Civil Code of Québec* (arts. 10 *et seq.* C.C.Q.).

IV - Disposition

1. For these reasons, I conclude that art. 2930 *C.C.Q.* takes precedence over the portions of s. 585 *C.T.A.* that hinder the *Civil Code*’s three-year prescriptive period in respect of bodily injury. I would therefore dismiss the appeal, affirm the Court of Appeal’s judgment and dismiss the appellant’s motion to dismiss, the whole with costs throughout.

 *Appeal dismissed with costs.*

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 *Solicitors for the interveners: McMaster, Meighen, Montréal.*