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Author's Note

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Recent Decisions

AUTHOR'S NOTE: In *San Antonio Independent School District v. Rodriguez*,⁵¹ the Supreme Court has held that education is not among the rights afforded explicit or implicit protection under the Constitution. In *Rodriguez*, denial of equal protection of the law was asserted because the state used an ad valorem property tax as the basis of school spending. Poor persons alleged that this basis discriminated against them. The Court found that although interest in education is very high, it is not a fundamental federal right. Therefore, the state action in this case was not subjected to the stringent compelling state interest test, but to the rational basis test which is the traditional standard of review.

Although the propositions advanced regarding the Court's concern for the protection of fundamental rights are no longer meaningful concerning a fundamental right to an education, they nevertheless remain useful when viewed in regard to those rights which are declared to be fundamental.

CONTRACTS—CAVEAT EMPTOR—IMPLIED WARRANTY OF HABITABILITY
—The Pennsylvania Supreme Court has held that a builder-vendor impliedly warrants that a house is constructed in a reasonably workman-like manner and fit for habitation.

Elderkin v. Gaster, 447 Pa. 118, 288 A.2d 771 (1972).

The Elderkins agreed to purchase from Gaster a lot and house to be constructed thereon. The water supply was to be provided by a private well drilled on the lot. It was undisputed that Gaster, a builder-developer, had adequately constructed the house and the well; but it was also undisputed that the well had never produced water of a quality suitable for human consumption. The Elderkins discovered the contaminated nature of the water after they had taken possession of the premises, and refused to release the remaining balance in the construction fund unless and until the builder would provide them with an adequate supply of unpolluted water. Gaster sued the Elderkins for the balance of the construction fund, whereupon the Elderkins brought suit in equity praying that the builder be required to supply them with

51. 411 U.S. 1 (1973).