

Owners Corporations be Warned!

Today, 8 October 2014, the High Court of Australia in the case of Brookfield Multiplex Limited –v- Owners Corporation Strata Plan 61288 & Anor [2014] HCA36 unanimously allowed an appeal by Brookfield Multiplex Limited from a decision of the Court of Appeal of the Supreme Court of NSW holding that Brookfield, the builder of a strata title apartment complex, did not owe a duty of care to the owners corporation of the complex to avoid causing financial loss resulting from latent defects in the common property.

The judgment of the High Court now confirms once and for all that generally the only claim available to an owners corporation for building defects is a claim for breach of statutory warranties under the NSW Home Building Act 1989.

Prior to this High Court decision, owners corporations were entitled to sue for breach of statutory warranties under the Home Building Act and also for breach of duty of care, i.e. in negligence at law.

Unfortunately, the High Court has now held that in general an owners corporation can only sue for breach of statutory warranties, but cannot sue a builder in negligence for a breach of duty of care because the builder does not owe a duty of care to the owners corporation.

For further commentary on this recent judgment of the High Court of Australia please view the following links:

1. [Brookfield Multiplex Ltd v Owners Corporation Strata Plan 61288 & ANOR](#)
2. [Brookfield Multiplex Ltd v Owners Corporation Strata Plan 61288 \[2014\] HCA 36 \(8 October 2014\)](#)

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