



Sellers Not Liable for Defective Home Renovations

The Massachusetts Supreme Judicial Court (“SJC”) recently issued a decision protecting sellers of residential property in Massachusetts from liability for defective renovations prior to the sale. In *Sullivan v. Five Acres Realty Trust*, the Buyers sued the Sellers, Giuseppe and Rosalie Gagliardi, after they discovered defects in the residential property they had purchased (the “Property”). Giuseppe Gagliardi owned a residential construction company. The Gagliardis had a history of purchasing, renovating, refinancing, and renting properties. In 2002, they purchased the Property and lived there for eleven years. During that time, they performed unpermitted renovation work on the Property.

The Buyers asserted claims against the Gagliardis for, among other things, violations of Chapter 93A and the implied warranty of habitability. The SJC vacated a jury verdict in favor of the Buyers on those two claims and found that the Sellers’ motions for directed verdict and judgment notwithstanding the verdict should have been allowed.

With respect to the Chapter 93A claim, the SJC held that the sale of the Property did not take place in trade or commerce because it was a strictly private transaction and the parties were not real estate professionals. The SJC relied on the fact that the Gagliardis owned the property for over a decade and, therefore, the case did not present an example of house “flipping,” where a seller purchases a property simply to renovate and sell it.

The SJC also held that the Sellers were entitled to judgment on the implied warranty claim because they are not “builder-vendors.” The Gagliardis were not involved in the original construction of the Property, and “the mere completion of renovations to one’s private residence does not make him or her a builder-vendor.”

Although the decision leaves open the possibility of liability for real estate professionals, it provides protection for private sellers of residential property against claims based on defective renovations.

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