



# Recent Decision Bulletin

## Is There Copyright in Your House?

### **Decision of Supreme Court in *Coles v Dormer, Clarke, & Breden [2015] QSC224***

This fascinating case concerned blatant disregard for the rights of the Plaintiff by the Defendants.

Mr Coles purchased a house in North Queensland in a new estate. He purchased it from the original owner who had specific plans drawn up that were unique and made the house one of a kind. There was an assignment of the copyright in those plans (and, it follows, the house) to Mr Coles.

The Defendants were the builders and owners of another house in that estate who blatantly copied the design.

Understandably, Mr Coles was upset and so issued proceedings in the Supreme Court against the builder and the owners seeking remedies under Australian Copyright Law (Copyright Act 1968).

The Court, not surprisingly, found in favour of the Plaintiff Mr Coles.

The Court said that proof of substantial, rather than complete reproduction, will suffice in proof of infringement. This was partly because the concept of originality in the law of copyright does not connote or require originality in a sense of novelty or originality of thought and rather merely requires that the relevant work has originated in or with the author concerned, rather than having been copied by the author.

There was an issue about the assignment. The Defendants said that the assignment of the copyright had occurred after the infringement, so it was ineffectual. The Court disregarded this argument.

The Court found that the elements of similarity were so pervasive as to compel the conclusion that the Defendants' house was a reproduction of a substantial part of the Plaintiff's house. In an eye-opening example of what the Courts can do, the Court ordered that there be modifications carried out to the Defendants house so as to remove the appearance of the areas that were similar to that of the Plaintiff's house.

The case is to be further heard later this month as to what monetary remedy is being sought by Mr Coles.

**(07) 3883 3700**

**[www.rblawyers.com.au](http://www.rblawyers.com.au)**

©2015 RB LAWYERS. All rights reserved