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Homebuyers' Implied Warranty of Habitability Suit Against Subcontractors Is Frozen out by Illinois Supreme Court

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Overruling 35 years of precedent, the Illinois Supreme Court has held that buyers of newly constructed homes cannot sue subcontractors for breach of the implied warranty of habitability. Sienna Court Condominium Association v. Champion Aluminum Corporation, 2018 IL 122022 (December 28, 2018).

The case involved condominium purchasers who sought recovery for construction defects from the original developer (which sold them the units), the original general contractor, and several of the original subcontractors.

The Illinois Supreme Court concluded that there is not an implied warranty of habitability right against a subcontractor when the damages are only "economic," i.e., commercial losses which do not result from bodily injury or property damage.

The *Sienna Court* decision does not negate an implied warranty of habitability theory entirely. It just limits such causes of action to parties with direct contractual relationships while still allowing subsequent purchasers to pursue warranty theories against original developers.

The *Sienna Court* ruling reaffirms the Illinois construction-law principle that legal theories arising from or related to contracts—such as an implied warranty of habitability—may be pursued between parties to that contract only. In doing so, it also affirms *Moorman Manufacturing Co.* and overrules *Minton*, lower-court precedent that had stood for 35 years.

Ultimately, this means that homebuyers will have recourse against only the entity with which they have a contract—whether a developer or a general contractor—when their only loss is economic. Contractors and subcontractors outside the seller-buyer relationship can now breathe easier.

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