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The Warranty of Quality did not Cover Just the Fireplace !

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On April 20, 2009, the Court of Appeal issued its judgment in three related cases concerning a defect in a fireplace that caused a fire resulting in the partial loss of the building owned by Alpha's insureds. Alpha sued the immediate seller to its insureds as well as the prior owners under the rules governing the warranty against latent defects.

The three Defendants maintained that Alpha could not claim more than the cost of repairing the fireplace. The Court of Appeal held that the object of the sale was the entire house and that the fireplace could not be dissociated from it; the fire having caused the loss of use of the home of the insureds, the warranty extended to the costs of repairing the building even though the insureds were in good faith.

This decision puts an end to the controversy concerning the scope of the damages that can be claimed following the loss of a building resulting from a latent defect affecting one of its components while the seller is in good faith. It is now clear that when the subject of the sale is a building, the measure of the damages is the loss of use of the building and not only the defective component.

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