

ARCHITECT'S CONTINUING DUTY TO REVIEW DESIGN

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ABSTRACT

Architects are design professionals that are retained for their design expertise and an architect that enters into an agreement with the client has specific duties that he has to perform; he has a duty to exercise reasonable skill and care in carrying out the design work in which failing to do so will render him liable for negligence. The subject of this research is the ‘Architect’s Continuing Duty to Review Design’, the existence of this duty was established in the case of *Brickfield Properties Ltd v Newton*, where it was held that an architect is under a continuing duty to review his design and to correct errors that may emerge. The objective of this research is to understand the nature of this Duty to Review Design owed by the architect and the extent of such duty. Among the questions that arise for consideration are: does this duty mean that the architect is under a continuing duty to review his design constantly and that he is to reconsider all aspects of his design; and what does this duty comprise, when does it arise also to what extent is the architect liable to for this duty? The statement by Sachs LJ in *Brickfield Properties* which states: “*The architect is under a continuing duty to check that his design will work in practice and to correct any errors which may emerge.*”; also highlight the main issue, whether the proposition of the statement here is that the duty to review design amount to responsibility for buildability of the design, in which this contradicts with the principle that ‘buildability is the province of the builder’? Based on the case analysis, it was found that this duty to review design does not amount to responsibility for buildability; it merely emphasise the need for architects to exercise reasonable skill and care in ensuring that the design did not lack buildability. This duty arises when there is a need that necessitates the architect to keep his design under review; it does not mean that the architect is to keep constantly reviewing his design.

ABSTRAK

Arkitek merupakan seorang professional yang dilantik kerana kepakarannya di dalam merekabentuk dan mereka bertanggungjawab merekabentuk dengan menggunakan tahap kemahiran yang sepatutnya, dan tanggungjawab ini perlu dilaksanakan dengan teliti. Kegagalan dalam melaksanakan tanggungjawab ini boleh mengakibatkan mereka disabitkan dengan kecuaiian. Subjek di dalam kajian ini adalah berkenaan tanggungjawab berterusan arkitek di dalam menilai dan menimbang semula rekabentuk mereka; kewujudan tanggungjawab ini telah diputuskan di dalam kes Brickfield Properties melawan Netwon, di mana arkitek telah dipertanggungjawabkan untuk secara berterusan menilai semula rekabentuk dan memperbetulkan segala kesilapan yang mungkin berlaku. Tujuan kajian ini adalah untuk memahami asas bagi tanggungjawab ini. Antara persoalan-persoalan yang timbul adalah adakah tanggungjawab untuk menilai semula rekabentuk secara berterusan ini membawa maksud bahawa arkitek tersebut perlu sentiasa menilai semula segala aspek rekabentuknya pada setiap hari. Juga untuk mengetahui apakah sebenarnya yang terkandung di dalam tanggungjawab tersebut; dan sejauh manakah arkitek tersebut dipertanggungjawabkan untuk menilai semula rekabentuk mereka. Melalui kenyataan oleh Sachs LJ yang membawa erti bahawa *'Arkitek dipertanggungjawabkan untuk menilai semula rekabentuk secara berterusan dan memastikan ia berfungsi sepatutnya dan juga untuk memperbetulkan segala kesilapan yang mungkin berlaku'*, membawa persoalan utama bahawa adakah ia mencadangkan bahawa tanggungjawab ini bersamaan dengan tanggungjawab terhadap rekabentuk yang praktikal dan boleh dibina. Berdasarkan pada kajian kes-kes, ia didapati bahawa tanggungjawab ini tidak bersamaan dengan tanggungjawab terhadap rekabentuk yang praktikal, tetapi ia membawa maksud bahawa arkitek dipertanggungjawabkan untuk menggunakan kemahirannya dengan teliti di dalam memastikan rekabentuknya tidak kekurangan dari aspek praktikal.