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Bob Aaron bob@aaron.ca

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Hollywood star's court win a victory for homeowners

Case helps bolster consumer rights

Texas enacts home warranty program

Anyone who wants to build a custom home might learn something from the recent experience of Sandra Bullock, star of *Miss Congeniality*, who successfully sued her builder for \$7 million (U.S.).

It all started when Bullock, now 41, hired the architect/builder M.B. "Benny" Daneshjou, to design and build her \$6.5 million, 10,000-square foot home overlooking Lake Austin, in Texas in 1997. When he hadn't been fully paid by 2001, Daneshjou sued Bullock for money he said was owing to him on the building contract.

In hindsight, it was a mistake. Bullock counter-sued, claiming defects in the construction of the home. During the two-month-long trial last year, the jury heard evidence of numerous problems, including damage to the brickwork, faulty wiring, water damage, and poor roof framing. Witnesses testified about non-compliance with local building codes, problems with the flashing and stucco, rotting drywall and the presence of toxic mould.

Today, eight years after construction began, the house is still incomplete and Bullock has never lived in it. During her testimony at the trial last fall, Bullock couldn't help cracking jokes about her legal fees. Glancing toward her lawyers, she said, "You guys are pricey. It's going to be a good Christmas, isn't it?"

The courtroom dissolved into laughter. It's nice to be able to joke about legal fees if you're wealthy. The jury took four days to answer 48 questions before reaching a verdict. Most of the issues were resolved in favour of Bullock. She was awarded more than \$2 million for repairs to the house, \$200,000 for maintaining it from early 2000 to the trial, \$280,000 in labour overcharges, and legal fees. Her lawyers estimate total damages awarded at \$7 million (U.S.).

In a written statement after the verdict was reached, Bullock said, "I felt firmly committed to see this process through to a just conclusion, no matter what the outcome, especially for all those homeowners who could never afford to come this far."

Earlier this year, Bullock still hadn't received any of the money the jury awarded her. *The Austin American-Statesman* reported in February that Bullock sued Daneshjou again, claiming that he was hiding his assets to avoid paying creditors. That case has not come to trial and the allegations have not been proven in court.

In the wake of the publicity over the Bullock case, the Texas legislature introduced a new compulsory limited warranty for anyone who buys a new home after May 30, 2005. Consumer groups attacked the legislation as builder-biased and too weak for the consumer, but at least it's a start. Buyers of new homes in the United States typically do not have the same level of new home warranty protection as we do in Ontario.

As a result, American consumer advocacy groups were delighted at Bullock's win, seeing her as a role model for the "little guy" who cannot afford to take on builders with deep pockets.

"A victory for Sandra Bullock brings to an end a long, grueling trial that sends a loud message to lawmakers, the home-building industry and a message of hope for homebuyers of defective homes across the nation," said Jane Ahmad, president of Home Owners For Better Building, based in San Antonio, Texas.

Nancy Seats, president of Homeowners Against Deficient Dwellings (HADD) in St. Louis, Missouri, noted that lawsuits against builders are uncommon because of the costs involved.

"I don't think that the average middle-income homeowner is going to pursue such a case," she said.

Canada has its own consumer website for buyers of new homes, founded by Ottawa resident Karen Somerville



(<http://www.canadiansforproperlybulthomes.com>). The site was founded by Somerville during litigation with her builder which I wrote about in last week's Title Page column. The site contains many useful links for homeowners across Canada.

My own recommendations for anyone wanting to build a custom home are:

- Make sure the architect and the builder are not the same person, as in Bullock's case.
- Check the builder's reputation. Ask to visit other custom homes he or she has built, and talk to the owners.
- Be sure to use industry-standard construction contracts, either for an all-inclusive price, or labour-plus materials. Read the arbitration clause carefully, so you won't wind up in court if there's a dispute.
- Consider hiring the architect or a third-party as a construction supervisor.
- Get to know the local municipal building inspector who will also oversee the project.
- Make sure you and the builder agree on the timing deadlines.

Have you built a custom home? What was the experience like? Any advice? Can you relate to what happened to Bullock or was it a good experience?

Please write me at 10 King St. E., #1400, Toronto M5C 1C3, or contact me by fax or email

Bob Aaron is a Toronto real estate lawyer. www.aaron.ca ©Aaron & Aaron. All Rights Reserved.