

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 35/2010  
[2010] NZSC 80**

BETWEEN                      DAVID PAUL HALFORD AND BLUE  
   SKY HOLDINGS LTD (IN  
   LIQUIDATION) AS TRUSTEE OF THE  
   AUCKLAND RESIDENTIAL  
   PROPERTY TRUST  
   Applicants

AND                              R F COUGHLAN & ASSOCIATES  
   First Respondent

AND                              NORTH SHORE CITY COUNCIL  
   Second Respondent

AND                              ROBERT HENRY GRAHAM BARTON  
   AND KAY BARTON  
   Third Respondents

Court:                      Elias CJ, Blanchard and McGrath JJ

Counsel:                    M C Josephson for Applicants  
   A Maclean for First Respondent  
   D Goddard QC for Second Respondent

Judgment:                13 July 2010

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed with costs of \$2,500 to the First Respondent.**

**REASONS**

[1]     The first ground which the applicants propose to argue is that the designer of the building, the first respondent, should have been found liable for inadequate details in the plans, regardless of whether the details might have been available to the applicants from other sources. However, there are concurrent findings of fact below

that in the circumstances of the case the plans and specifications were not negligently prepared by the first respondent. The decision turned on the particular facts of the case and gives rise to no wider principle. The criteria for leave are not met.

[2] The second proposed ground of appeal is that practical completion certificates were negligently issued by the first respondent. However, in circumstances where, as has been held below, it has not been shown that the certificates were relied upon by the applicants, we do not consider that this ground is arguable. It has not been shown that the certificates were causative of any loss to the applicants.

Solicitors:  
Grimshaw & Co, Auckland for Applicants  
A Maclean, Auckland for First Respondents  
Heaney & Co, Auckland for Second Respondent