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Last week, the Arizona Supreme Court struck a decisive blow for community associations and homeowners in the state of Arizona. In a landmark decision that will likely receive national attention, the Arizona Supreme Court ruled that a homeowner may sue the builder of his home for construction defects whether or not the builder was the entity that sold the home.

Writing for a unanimous Court, Justice Andrew Hurwitz stated, “Innocent buyers of defectively constructed homes should not be denied redress simply because of the form of the business deal chosen by the builder and vendor.”

The decision was hard fought and the result of many years of litigation. The trial court ruled that the plaintiff, a condominium association, could not bring an implied warranty claim against the builder of its units because the builder was not the developer that sold the units to the public. This left the association without any remedy against the builder of its defective units.

The association appealed the ruling to the Court of Appeals, which, in a high-profile opinion, also rejected the association’s claim against the builders responsible for its defects. Determined to reverse these unfair rulings, the association appealed again to the state’s highest court. Although the Arizona Supreme Court rarely accepts review of cases, it granted review to this case because of its statewide importance.

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