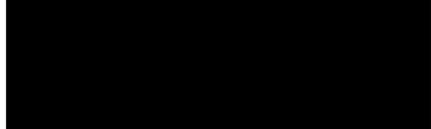


Ladislav and Catherine Ann Morlok,



3rd September, 2012



Our complaint is about a building dispute which commenced in October 2001.

Our story follows:

April 2001 we contracted with a builder to build our retirement home outside Toowoomba. The house was completed late September, 2001 with the final payment made.

October 2001 we filed complaint notice to BSA because of the unsatisfactory feature timber floor installed by the builder stating –wooden floor creeps , loose in many places – not properly anchored (nailed) to floor joists . Ladislav Morlok is a engineering tradesman and knew that something was very wrong with the new feature timber floor.

Early the following year after BSA investigated, resulting in the builder coming on couple of occasions and doing some repairs to the floor but these repairs did not address what we complained about. We continued to write letters of complaint about the floor to BSA .

Nov 2002 BSA Timber floor expert consultant came to inspect the floor – and one recommendation this expert made was option *“to remove a section of the flooring etc and check if the battens are loose”* This expert was to return the following March according to a letter BSA sent us with the report and never returned, *nor did the BSA follow this advice.*

Our floor continued to get worse and we continued our complaint letters to BSA.

(2)

12th January 2004 BSA issued a *letter to rectify* to the builder saying:

quote: "the timber floor has continued to deteriorate with numerous nails now "popping" and sitting proud of the floor surface"

The builder then advised BSA he was looking to his insurance to get a replacement .

February 23 2004 the BSA issued an in office memorandum (*obtained by us in 2011 under Freedom of Information – many other documents were refused*)

Saying Quote:

For: "Action" (Box ticked)

Subject : Builder(named)– Priors Road – Defective Floor

Builder(named) advises his insurers are inspecting today & has requested a further extension to request to rectify as -

- Wait for insurers assessment*
- Order new timber*
- Obtain/contract someone to do work*

April May 2004 we moved all furniture and our belongings out of our home and had to seek accommodation elsewhere at our own expense- no compensation offered or paid by builder.

Instead of replacing our **defective** floor the builder came in repunched down every nail in all the floorboards, added extra nails, drilled holes in floorboards and poured down copious amounts of glue and then resanded and repolished the floorboards.

At this stage our timber feature floor had dynabolts into the floorboards through into the concrete base,(done by builder before we moved in) unspecified nail holes throughout our feature timber floor, extra nails, and holes where copious amounts of glue had been poured down, and floorboards nailed in crooked lines *not straight not offset but crooked* and still the floor was not secure and was creaking and cracking.

We continued to complain to BSA as the floor was worse after the builder did his bodgy rectification and - despite the *BSA first expert's recommendation to lift floor and check the battens* and despite the BSA office *memorandum issued on 24th February, 2004* which clearly shows the *BSA was well aware that the floor was defective and should have been replaced there was no action by the BSA .*

23rd November 2005 another BSA "expert consultant" came and inspected the floor.

23rd February 2006 the BSA sent us that consultant expert's report together with a letter saying the timber floor was "*not considered defective*" closed our file and said if we were not satisfied to go to the then Commercial and Consumer Tribunal for a review of the decision.

November 2005 the builder changed the name of his company but kept the same ABN.

March 2006 We filed our matter for review with the then Commercial and Consumer Tribunal . Ladislav made a video as evidence of the underfloor from the side of the house at intervals and filming with a mini camera showing the loose moving battens. We also had an engineer's report as evidence.

July 2007 the 1st Directions Hearing took place. We were representing ourselves and felt at a disadvantage as both BSA and builder were represented by solicitors so then we engaged a solicitor who suggested we get an expert timber report for our matter which we did.

23rd November, 2007 our matter in the then Commercial and Consumer Tribunal for the review with the BSA and builder was "stayed" whilst we pursued the builder separately as our solicitor believed that was the course of action as we were not keen for this bodgy builder to return and work on our home – we preferred a different builder.

Our timber expert cut out sections of the feature timber floor throughout the house to check the battens (*the very same thing the first BSA timber expert had suggested back in November 2002 to BSA to check battens and advice to which the BSA did not follow despite of our numerous complaints.*)

The battens under our timber floor were split and undersized and did not meet the trade standards and this was the cause of the failure of our timber feature floor. –

The builder then engaged the same "expert consultant" the BSA had used in November 2005 who again said our floor was satisfactory .

So began months of reports and counter reports, correspondence and the builder taking different stances all of which carried on for two years and more Directions Hearings.

Our expert's report of the evidence of failure of our timber floor (which was undisputable as our report clearly showed under sized and split battens throughout the house and bad workmanship) was sent to BSA by our solicitor asking BSA for help for us . The BSA was not forthcoming with any help – they said they would wait the outcome of our matter.

Our expert said quote" *this floor was the worst fixing exercise I have seen in well over thirty (30) years of investigations.*"

We obtained a quote from another builder to replace the defective floor for \$62,496.

January 2010 by then we had exhausted our finances (spent over \$30,000) but as we had gone so far and felt so strongly about the injustice of our matter we then acted for ourselves.

March 3, 2010 Queensland Civil and Administrative Tribunal called a compulsory conference between us and the builder and his solicitor and the result of than was that the builder signed a Judgement to pay us \$62,496 forthwith (the quote of another builder to replace the floor.

Mr Newman we thought our troubles were over – they were just beginning.

When presented with the letter of demand to pay us the QCAT Judgement monies owing to us the builder's solicitor personally told Catherine there was no money. This happened on three occasions.

6th April 2010 We personally took a copy of the QCAT Judgement to BSA Toowoomba and told them the builder would not pay and said he had no money and were told by the BSA officer who had originally assessed our matter " *it(the Judgement) didn't mean anything , it was nothing to do with the BSA.*"

We believed as the builder had no money and couldn't pay his debt then he was *insolvent* and that the Warranty Insurance should pay.

We then the same day forwarded copy of the QCAT Judgement and letter to BSA Brisbane office as the Toowoomba office was unhelpful.

With the assistance of the self- representative legal solicitors we obtained builder's ASIC documents on public register. We then had legal advice that there was no use in liquidating the builder because of other creditors such as banks who would get first preference, it would be no help to us there would be nothing for us at the end only unrecoverable debt for us.

Thereafter the BSA "*protector of the consumer*" attempted to make us go away.

15th April 2010 BSA sent a letter

Saying quote " they could not take any action to enforce the decision against Gates" and enclosed consent forms to dismiss our original Tribunal proceedings on "stay".

BSA wrote quote: "*in any event the BSA is unable to issue direction to rectify and or complete to the builder as more than 6yrs and 3 mths months had lapsed since the work was carried out and Accordingly if these proceedings were to continue the Tribunal would be unable to order that the BSA issue a direction or rectify and /or complete to the builder.*"

"As the Authority had previously determined that the work carried out by the builder was not defective there would be no insurance available pursuant to the Statutory Insurance Scheme."

May 2010 we made application to have our original matter on "stay" renewed- this was within the allotted time limits and this was our only chance for justice -

We had been advised by our former solicitor of our rights - we had our original first application for review in to the then CCT within the allotted time span of 6 years and 3months – and again we also had our application into CCT for the renewal of the " stay" and again before the 6yrs and 3 months of the bodgy rectification of 2004.

8th June 2010 BSA wrote quote:

"Should you commence any enforcement action against the Authority for recovery of the ordered amount the Authority would have no option but to apply to dismiss those proceedings and seek our costs in doing so from you"

Then Quote" should the authority not receive the consent notice signed by us by 25th June 2010 we will make application to the Tribunal to dismiss the review proceedings"

We persisted - we believed we had been badly wronged

It appeared the "protector of the consumer" wanted us to go away.

The BSA "protector of the consumer" was avoiding the issue – and later (8th August 2011) BSA were proved wrong as BSA did issue the builder a Letter to Rectify our defective timber floor .

Thereafter followed Directions Hearing in QCAT and discussion about the legal" ins and outs" about whether we had a case to proceed further with a review as according to the BSA we had already been compensated with the builder signing the Judgement (even though we hadn't been paid).

At one Directions Hearing the BSA representative seemed unsure if the BSA was involved in the rectifications in 2004 – - Catherine told the Directions Hearing this was incorrect and told the Directions Hearing BSA had issued letter to rectify and this letter to rectify letter dated 12th January 2004 was missing from the BSA Statement of Reasons file and misquoted in Statement of Reasons.

At Directions Hearing the builder's solicitors said *"they acknowledged the Judgement but can't pay it- but are solvent-the builder could pay all other debts but the Judgement"*

We had issued our own demand letters to builder, it was discussed that we could also issue a creditor's statutory demand for payment of debt (form 509H) of corporations act, which we did and got no response. At the next Directions Hearing the builder's solicitor said they had received statutory demand and again said builder couldn't pay.

We offered the QCAT Judgement over to the BSA in exchange for the Warranty Insurance so there could be no claim that we were" double dipping" to no avail.

At another Directions Hearings despite the builder signing a Judgement to pay us \$62,496 on 3rd March 2010 which in itself the builder's admittance the floor was faulty the BSA wanted yet another inspection of our defective floor and to which we agreed as we weren't getting anywhere.

Another BSA inspector came and then he called in yet another BSA expert consultant who then said the floor was faulty.

27th July, 2011 at Directions Hearing despite the builder's conduct of years of denying anything was wrong with our timber floor, the unworkmanlike building of our floor (*Our evidence shows this clearly*) doing only bodgy rectifications and not replacing our defective floor in 2004 when it should have been replaced and then builder signing a Judgement for \$62,496 which he did not honour saying he had no money, all this causing us stress and hardship and the loss of our life savings -

the BSA said it would be UNFAIR to issue a Direction to Rectify as the builder was willing to go back and rectify.

The builder with no money to pay us the QCAT Judgement debt of 3rd March 2010 by some miracle found the money do the rectifications.

When Catherine asked how could the builder pay for the rectifications she was told it wasn't her concern.!

27th July, 2011 at Directions Hearing Catherine spoke of her concerns that the builder would not do a proper job.

At that same Directions Hearing BSA said quote "*BSA would still supervise and take an active role*" and QCAT senior member said quote "*the BSA will monitor the work the builder does*"

We were desperate because we needed our defective floor rectified and we were left with no other choice but to accept this builder again.

8th August, 2011 the BSA issued a Letter to Rectify to the builder.

The matter was still kept in QCAT .

7th September, 2011 we specifically requested the builder to maintain the new timber floor to the existing ceramic tiled area and cork tiles and not change the separation line between the new timber floor and cork tiles in kitchen/breakfast room.

We removed and stored all our furniture and belongings and moved out of our home to live in a caravan on our property all at our own expense – no help or compensation was offered by the builder –(he wouldn't pay anything).

Mid October, 2011 builder commenced rectifying by firstly removing the defective battens and floorboards and a few days later the new battens were laid. Catherine contacted the BSA and asked the officer on our case to come and inspect the new battens. The officer declined saying he quote "*wasn't a building certifier.*" Nor did the officer offer to send one.

BSA failed to honour the undertaking they gave at the QCAT Directions Hearing on 27th July, 2011 that "the BSA will still supervise and take an active role"

7th November 2011 the builder started laying the floor boards and two days later we found the new timber floor being installed was lower than the existing tiled areas we immediately notified the builder and BSA and QCAT.

The builder came a few days later and by then the floor was almost installed and wanted us to sign acceptance to the new timber floor being lower than the existing ceramic tiled areas and if we did so he would then replace existing kitchen cork tiled area flush to new timber floor.

We asked the builder to rectify the new timber floor to the same level as all the existing tiled areas. (As was originally) The builder said he would only do the area between the new timber floor and the existing cork tiles in kitchen/breakfast room and not the rest and he would only do this on the condition we sign. We refused to sign.

21st November following our complaint the BSA came to inspect by then the new lower timber floor was installed. BSA sent a report to QCAT saying : Quote:

"the work consists of removing an existing timber floor that joins onto other existing floors throughout the house when laying a new floor in these circumstances it is extremely difficult to get the floor reasonable level and to match to existing floor levels throughout the house"

*The report also said it was more of a contractual matter; as to why it should be a contractual matter? – when The BSA gave an undertaking to supervise and take an active role at the Directions Hearing on 27th July, 2011 means the BSA failed their *Duty of Care*.*

We could do nothing but allow the builder to finish his bodgy work.

2nd February 2012 the builder confirmed he had finished the job. We then requested BSA to inspect as there were many issues disputed by us, which we wanted finalised before the next QCAT Directions Hearing on 1st March 2012.

29th February, 2012 inspected and sent report to QCAT and *repeated the findings of 21st November 2011.*(stated above) The BSA also told the builder to return and fix some items.

1st March 2012 QCAT requested we withdraw our matter as the new timber floor was installed and said if we had any further complaints it would become a new complaint to BSA.

12th March 2012 The builder returned and did further unsatisfactory work

17th April 2012 We submitted a *new complaint form* stating the rectification of the new timber floor was unsatisfactory giving details of what we disputed such as the new lower level timber floor and quality of timber floorboards, and other issues.

3th July, 2012 BSA did an inspection and BSA report of **5th July 2012** states quote:

"the original floor was laid on battens replacing the floor is not an easy undertaking"

It appears that the BSA was defending the builder's bad workmanship once again as previously the BSA has done on reports 21st November 2011 and 29th February, 2012.

The builder built the original timber floor which was built by the builder on battens – the tiled areas were already installed in place by the builder when the builder built the original timber floor. The builder matched the original timber floor level to the then already existing ceramic tiles and cork tiles.

As the builder built the original timber floor level to the then existing tiled areas originally – there is no excuse for the builder not doing so again.

There was absolutely nothing that was different about the building job of installing the new battens and the new timber floorboards this time compared to the original job – it was exactly the same job – the builder had a an empty house- there was nothing to restrict the builder.

The builder's job was to construct the most basic part of any building - a basic timber floor level to existing areas- building a basic floor is not a hit and miss job – one time it may be level – the next time not.

Good workmanship is starting from existing areas and working from there. The builder did not practice good workmanship.

The new timber floor is unlevel throughout the house ranging from 3.5 millimetres to 6 millimetres (builder claimed he laser levelled the house this clearly shows that is untrue and this was no excuse that the builder could not match the new timber floor to the existing areas). Every doorway entry between the lower new timber floor and the existing ceramic tiles has a different measurement from between 3.5 millimetres to 5 millimetres and large gaps where the builder has installed two different types of "cover strips" on two occasions in these areas which were unsuccessful .

These cover strips were placed on top of the new timber floor *alongside* the ceramic tiles with the *lippage* of the tiles sitting prominently above. Whatever cover strips are installed will cause a tripping hazards because the new timber floor is lower than the ceramic tiled areas. The last attempt (14th August 2012) the builder wanted to put a 50 millimetre wide brown plastic strip which was unacceptable to us and we refused to have that strip installed because of tripping hazards.

The BSA has disregarded our concerns about the where the new lower timber floor joins the existing cork tiles in kitchen/breakfast room directly in front of fridge, the most used appliance in every home. The new timber floor is 5 millimetres lower than the existing cork tiles – the builder has cut into the new timber floor and placed a wooden insert (*BSA refer to this as a cover strip*) between the new lower timber floor and existing cork tiles which not only unsafe but unsightly. This is a tripping hazard and health and safety issue When the fridge door is opened a person has to stand on the bodgy timber insert between the the new timber floor which is 5 millimetres lower than the existing cork tiles. This bodgy timber insert is an attempt to camouflage the two levels. Previously this area was level and flush and had no strip.

How the BSA whose purpose is to uphold standards of the building industry and protect the consumer can defend such bad unskilful workmanship, is beyond us.

5th July 2011 As result of BSA inspection of 3rd July 2012 (to our complaint form) the builder was given a list of items to rectify or complete within 21 days together that list was statement that they did not consider cover strips defective work and that the new timber floor meets standards and that this was reviewable in QCAT if application is made within 28days.

The builder never turned up within the 21 days(he claimed he couldn't contact us which is amazing as we were waiting) and then was given another extension to complete the work by 17th August, 2012. It put us at a disadvantage .

If we wished to have the disputed issues reviewed in QCAT we would have to apply for an extension of time review, again waiting, before even if granted by QCAT we got to a review.

We believe even if we were to do this and the builder again came to rectify again it would only be the same bad workmanship .We somehow have find funds to make this bad workmanship acceptable in our lives.

We have spent our life savings trying to get justice. This matter should have been addressed by the BSA in 2002 on receiving their first expert's consultant's report. If the BSA had followed their first expert consultant's advice this matter would have been resolved years ago.

The BSA failed to record the QCAT Judgement dated 3rd March 2010 (registered in the District Court by us) on the builder's record despite our many letters to the BSA advising it was not paid. (it never appeared on any online search of license).

The builder has a new company in partnership with another person – How he can satisfy his licensing requirements, if the company under which he signed the QCAT Judgement and he failed to pay and which he said there was no money in that company, is a mystery to us.

In May 2009 the then Commercial and Consumer Tribunal forwarded a letter to the builder cc to other parties that the builders address for correspondence had been changed on their records to C/- Queensland Building Services Authority, Legal Section 299 Montague Road, West End. We are astonished that the builder should enjoy such privilege.

We understand that purpose of the Queensland Building Services Authority is to protect consumers from questionable building practices and ensure proper building standards are maintained and that the Authority is accountable to the Parliament of Queensland.

Mr Newman the BSA have failed us in their Duty of Care and we have had to suffer the consequences of their failure.

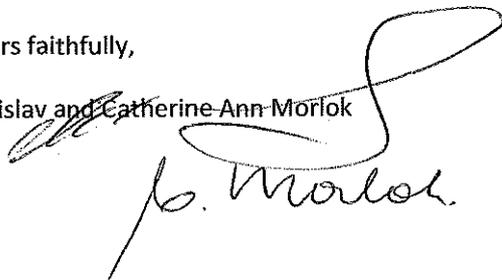
We are now 71 and 72 year old age pensioners our dispute which should never have happened if the BSA did their job properly has caused us years of stress and hardship and has cost us our life savings of over \$30,000 in seeking justice. It also seems that nothing much has changed in the manner the BSA do their job in 2012. We are now too old and tired to carry on as it seems we would just be going around in circles.

No one should ever have to go through what we have experienced – it is immoral, improper and disgraceful.

Mr. Newman what will your government do to make the BSA accountable for their actions – what has happened to us these past eleven years makes a mockery of the BSA being " *the Protector of the consumer against questionable building practices and the upholder of building standards.*"

Yours faithfully,

Ladislav and Catherine Ann Morlok

A large, stylized handwritten signature in black ink, appearing to read 'L. Morlok' or similar, written over the typed name.

Cc to Mr. Ian Rickuss, Member for Lockyer