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FAMILIES TAKE QLD. DEVELOPER TO COURT

Twenty-eight families who planned a Sea Change lifestyle at the Casuarina Sands development in northern New South Wales have taken developer Consolidated Properties to court to stop the property giant cancelling their dreams.

Consolidated Properties (via its subsidiary Kings Beach (No 2) Pty Ltd, the vendor of the properties) has been cancelling contracts with purchasers who bought the properties in 2003 for around \$220,000. The properties are now valued at more than \$330,000.

Consolidated Properties has told purchasers it is cancelling the contracts because it was too difficult to get planning approval from the NSW Government.

The law firm Slater & Gordon, acting for 28 of the original 133 purchasers, has begun legal action to stop the developer walking away from its contracts.

Lawyer Michael Magazanik from Slater & Gordon says the Casuarina Sands development is a saga which has put lives on the hold for the past three years – after some families moved from interstate to rent nearby until they built their dream home.

“The contracts contained a sunset clause which allowed Consolidated Properties to rescind the contracts if it failed to get development approval and take other steps within 30 months,” Mr Higgins said. “But the contracts also require that the developer makes ‘reasonable endeavours’ to secure development approval.”

Slater & Gordon has filed a class action in the Supreme Court of NSW. The statement of claim alleges that Consolidated Properties failed to make reasonable endeavours to satisfy the Settlement Pre-Conditions within 30 months of the date of contract, and has therefore lost the right to rescind the contracts.

“Slater & Gordon has inspected documents held by the New South Wales Government and there’s evidence that Consolidated Properties and their agents never bothered to tell the Government about the sunset clauses and the looming rescissions,” Mr Magazanik said.

Consolidated Properties has blamed the New South Wales Government (Department of Infrastructure Planning and Natural Resources (DIPNR)) for the planning approval delays.

“Consolidated Properties are insisting they did their best to get development approval – yet they’re refusing to allow our clients access to their documents to test that claim,” Mr Magazanik said.

Consolidated Properties repeatedly assured purchasers – in November 2003, and February and September 2004 – that the process was on track.

“Then in mid-2005 Consolidated pulled the plug on them,” Mr Magazanik said. “Many of our clients had moved to the area to prepare to move into the development. They are devastated.

“The land has gone up significantly in value. All our clients want is what they contracted to purchase. They are not after damages or a payout – they just want their land.”

Michael and Kylie Wilmen sold their house and moved to nearby Kingscliff where they rented in preparation for moving into the Casuarina Beach development with their two children. "This was going to be the next phase of our lives and we've made financial sacrifices to do it. Now we're being told it's all over," Mr Wilmen says. "The families who believed the promises have been forgotten. Consolidated Properties and their off-shoot Kings Beach will be able to sell that chunk of land to another developer. I want to ask Consolidated Properties: 'Why are you doing this to us?' "

Geoff Coates and his wife Jill bought a block of land in 2003 planning to retire there within the next few years.

"We planned to go down there and build a house and retire. It was our dream. We believed Consolidated Properties and all of their promises. For years Consolidated kept telling us we were about to get our properties," Mr Coates says.

"Then all of a sudden they tell us all bets are off and we can't have the blocks. We're back to square one and it's devastating," Mr Coates said.