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High Court Rules Against Developer
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In a victory for municipalities and homeowners, the state Supreme Court yesterday ruled that townships can protect residents from damage caused by construction code violations by developers.

DKM Residential Properties Corp. of Hopewell Township sued Montgomery Township in 2001 after the township sought to hold it responsible for problems that developed at the Cherry Valley Country Club development because of flawed stucco. The township filed 61 notices of code violation against DKM but the builder appealed, claiming that since the houses were already sold, the repairs were the homeowners' problems.

After an appellate court ruling in favor of the builder, the township could only issue a notice of violation to the homeowner.

The township then appealed to the Supreme Court, which found that holding the builder responsible promotes "the salutary public policy goal of compliance with the code."

"It feels very, very good," said Louise Wilson, Montgomery Township mayor. "That was a very important case, not only for Montgomery but it does have statewide significance.

"The appellate court stripped away the municipalities' ability to hold developers accountable for substantial work defects."

Houses in the upscale development built from the late 1980s through the 1990s began to have moisture problems because of the stucco-like substance on the outside, she said. They were "rotting from inside out."

But DKM said "tough luck" and claimed it had no responsibility, Wilson said. Later, during the litigation, the company paid for repairs, she said. But the township continued its appeal to the Supreme Court because "for us the question was what happens next time. Just because DKM paid, doesn't mean the next developer would."

"We're delighted," said Kristine Hadinger, township attorney. "We're really, really pleased."

Michael Lampert, who represented the developer and the New Jersey Builders Association, could not be reached for comment. Officials at DKM could not be reached for comment.