

subdivision plan ("the SSL Plan") of the development approved by the Chief Planner the orientation of lots 1 and 2 changed so that instead of both lots facing and adjoining the public road on the South they now both faced East and only lot 1 adjoined the public road on the South.

[12] Further, the size of both lots changed so that the area of land (excluding road reserve and road) was reduced.

[13] The completion of the sale and purchase of lots 3 to 20 inclusive was dependent upon System Sales obtaining a certificate of compliance from the Chief Town Planner in respect of the construction of a roadway (including verge) adjoining the lots. To this end, System Sales commenced the execution of the works necessary to obtain the certificate of compliance. It had expended considerable sums in excavation work on the laying of mains for water and natural gas and was about to lay the slipper drains for the roads when in December 1998 Mr. Suttle chased the workmen of System Sales off the site and stopped the work.

[14] As a result System Sales sought and obtained, in an Intended Action, an injunction restraining the Suttles, among other things, from preventing the servants or agents of System Sales from entering onto the land for the purpose of completing the development. Thereafter, System Sales commenced these proceedings.