

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**CIVIL DIVISION**

**DOMESTIC BUILDING LIST**

VCAT REFERENCE NO. D173/2004

**CATCHWORDS**

Domestic Building, slip rule, correction, GST.

<b>APPLICANT</b>	The Professional Group Pty Ltd (ACN 076 578 393)
<b>RESPONDENTS</b>	Scott Rickard, Robin Brown
<b>WHERE HELD</b>	Melbourne
<b>BEFORE</b>	Senior Member M. Lothian
<b>HEARING TYPE</b>	In Chambers
<b>DATE OF ORDER</b>	2 March 2006

The Professional Group v Rickard and Brown (Domestic Building) [2006]  
VCAT 296

**ORDER**

It having come to my attention that order 1 of 3 January 2006 contains an error, it is ordered pursuant to s119 of the *Victorian Civil and Administrative Tribunal Act 1998* that in place of the order that the Applicant pay the Respondents \$31,841.00, it is ordered that the Applicant pay the Respondents \$34,786.00 forthwith.

**SENIOR MEMBER M. LOTHIAN**

## REASONS

1. On 18 January 2006 Solicitors for the Respondents wrote to the Applicant to advise him that the order of 3 January 2006 contained an error, in that it failed to include an amount for GST on the sums assessed by Mr Buchanan. The assertion is correct. In accordance with the expert opinion of Mr Buchanan the order should have included an amount for GST and failed to do so. In accordance with *Riga v Peninsular Home Improvements* [2000] VCAT 56 this is an error which, if brought to the Tribunal's attention, would have caused the correction to be made at once.
2. There was also an error of addition at paragraph 101 of the reasons. The sum of "\$19,488.00" should be \$19,168.00, and 63.8% of that sum is \$12,229.00, instead of the sum of \$12,433.00 which had been allowed for consultants' fees, supervision, overhead and profit. The total of these sums before GST is added is \$31,397.00. When GST of \$3,140.00 is added, the total sum the Builder must pay the Owners for rectification becomes \$34,537.00.
3. The Contract Reconciliation under paragraph 101, with changes in italics, is therefore:

Contract sum	\$126,340.00
Variations 1-19	<u>\$ 17,455.00</u>
	\$143,795.00
Credit for dimension change	<u>\$ 1,195.00</u>
	\$142,600.00
Paid by Owners	<u>\$124,688.00</u>
Owing to Builder under contract	\$ 17,912.00

Completion costs	\$ 14,161.00
<i>Rectification costs</i>	\$ 34,537.00
Liquidated damages	<u>\$ 4,000.00</u>
<i>Sub-total due to Owners</i>	<u>\$ 52,698.00</u>
Less owing to Builder	<u>\$ 17,912.00</u>
<i>Net sum due to Owners</i>	\$ 34,786.00

**SENIOR MEMBER M. LOTHIAN**