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A Supreme Court Decision on the destruction of a work of art

It has always been a hotly debated question in the Netherlands whether the destruction of a work of art amounted to an infringement of the moral rights of the artist or not. The question has finally and unequivocally been decided by the Supreme Court in its decision Jelles/Gemeente Zwolle of 6 February 2004: The Court decided that the total destruction of an object embodying a work protected by copyright cannot be deemed to be a distortion of the work in the sense of the moral rights provision of the Copyright Act. The Court then continues: the owner of the object is however not free to totally neglect the interests of the author. Such a destruction might under certain circumstances amount to an abuse of rights in the sense of the Civil Code or otherwise constitute a tort in the sense of the same Civil Code. In case of a unique copy of the work, like for instance a building, the owner may only resort to destruction if there are legitimate interests involved. The owner should then also take into account the legitimate interests of the architect by, on request, properly documenting the building or at least giving the opportunity for documenting to the architect himself.