



Court case in the Netherlands
Amaryllis

Peter Blok

Amaryllis



Bulb



Flower

The Amaryllis case

- Breeder X owns Dutch and Community breeder's rights in various Amaryllis varieties
- License agreement between rights-holder X and grower Y has ended
- Grower Z has continued Y's production of the bulbs and sold the bulbs for the consumer market



Dutch law

propagation material: plants and parts of plants, intended for plant cultivation or multiplication or used for such purpose;

Art. 1 (f) Dutch Seed and Planting Material Act

EU law

'variety constituents': entire plants or parts of plants as far as such parts are capable of producing entire plants

Art. 5(3) Regulation 2100/94

District Court of The Hague

- Flower bulbs sold for the consumer market are not propagating material
- Flower bulbs sold for the consumer market are not material intended for cultivation or multiplication of plants



District Court of The Hague 6 July 2016, ECLI:NL:RBDHA:2016:7375

District Court of The Hague

- No judgement on whether the flower bulbs are harvested material
- If flower bulbs are harvested material, there is no infringement since X had reasonable opportunity to exercise his right in relation to the propagating material



Court of Appeal of The Hague

- Flower bulbs are 'propagating material' in the sense of Dutch Breeder's Rights Act
- The produced flower bulbs have propagation capacity and were intended for cultivating plants
- That the cultivation will be performed by consumers is irrelevant



Court of Appeal of The Hague 13 Februari 2018

Court of Appeal of The Hague

- Flower bulbs are 'components' in the sense of EU Regulation 2100/94
- Flower bulbs are parts of plants capable of producing entire plants



Court of Appeal of The Hague



- The regime for harvested material is an extension of protection
- Material that qualifies as propagating material/component is not harvested material
- The cut Amaryllis flowers are harvested material

Supreme Court

- Appeal dismissed without reasoning
- No issues relevant for the unity or development of law

Hoge Raad 21 April 2021, ECLI:NL:HR:2021:531



Thank you for your attention!

