



Construction mediation property development case study

Construction mediation was entered into by the claimants who were property developers, who had invested £2.3 million in a property development, £700,000 of which was invested by the defendant. The defendant gave an initial £350,000, the remainder was to be invested / paid 12 months after his initial investment.

The first payment of £350,000 was clearly evidenced in a contract between the parties, the second payment was agreed orally, with no witnesses, the parties had known and worked alongside each other for years and had done deals like this previously therefore this sort of arrangement was not uncommon.

When it came to paying the second payment, the defendant did not make it, and was asking for his initial payment back. Months passed; work on the development stopped due to a lack of funds, the collapse of the housing market and the general economic downturn.

Proceedings were instigated and the parties decided to try mediation. The defendant advised that the housing development was nowhere near complete, the value of the land had dropped, he had probably lost his original £350,000, what possible reason would he have to invest the remainder, especially when he was under no obligation to.

The claimants alleged he was under an obligation to, following the series of meetings they had and the particular conversation which this all relied upon. Equally they had only stopped construction as they had run out of money, having borrowed to make up the difference in the defendants share.

Neither party was willing to move, wanting to rely solely on the original contract which itself could have been construed better. A number of options were presented by both sides on how they could resolve this matter, which unsurprisingly appeared to favour more their position than the other sides.

An agreement was finally reached, whereby the defendant agreed to purchase the site off the claimants and complete the work and sell on the properties as he saw fit, the purchase price was nothing compared to the profit the defendant would make when he sold the properties. The purchase price allowed the claimants to relinquish all their debts, pay off all their partners, as well as be rid of this headache, which they clearly needed, as well as turn a small profit, nothing compared to what they could have made if the project was seen through to completion, but a resolution nevertheless.

Facts & figures

- **The mediation took 1 day compared to the 18 months this construction dispute had already gone on.**
- **The mediation cost each party £1400.00 each compared to the thousands they had already spent on legal fees and the thousands they would have had to spend had they continued with Court action.**