

Allandro Heights Ltd v Ken Stirling Ltd [2002] DCR 713

Partially successful claim by AHL - AHL applied to subdivide a block of land - KSL and the second defendant, Chander ("C"), owned the land adjoining AHL's property - they agreed to purchase the land from AHL - the parties entered an agreement for a portion of AHL's land to facilitate access - the sale agreement was conditional on the issue of all necessary approvals acceptable to AHL and the certificate of title being issued by the 30 November 1998 - it also provided that the date could be extended if the issuance was delayed by unforeseen weather conditions or by the local authority - the local Council's required that AHL to form an access road over the land sold to KSL and C - AHL objected to this - and the matter was resolved by the Environment Court - in the interim, the deadline for the sale continued to be extended - in the end, KSL and C purported to cancel the contract on the grounds that the issuance of the title had not occurred in the required time - and that the dispute between AHL and the Council was not a delay by the local authority - AHL sued for specific performance when the purchaser refused to settle - AHL also sued the third defendant, Lynch, a firm of solicitors, for negligence.

Held, AHL was entitled to extend the deadline where there was a delay in local authority processing leading to a delay in the issuing of titles - this included the obtaining of resource consents and was not just restricted to administrative acts of the authority - however, KSL and C were entitled to cancel the contract for failure to give notice extending the deadline - accordingly, AHL's claim for specific performance fails - however, the claim against L succeeds since they were negligent in not alerting AHL to the need to give notice to the purchasers for an extension of deadline - AHL is entitled to damages equal to the difference in value between the contract price for the land and its market value - claim partially successful.