

TURIFF CONSTRUCTION LTD V REGALIA KNITTING MILLS LTD (1972) DIGEST OF CASES
257

Official Referees Court (United Kingdom) – 22 November 1971

FACTS

Turiff, who had successfully tendered for a building project, was asked to commence preparation work immediately while negotiations were conducted to agree to the terms to be included in a formal contract; Regalia was to purchase the land and obtain the necessary permits in the meantime.

Turiff indicated that Regalia's sending of a letter of intent would be regarded as an acceptance of an offer to commence such work on terms that it would be paid for even if a formal contract did not eventuate. The proposed contract was to be a design and construct contract.

ISSUES

Should Regalia be found liable to pay for preliminary works carried out by Turiff arising out of abortive negotiations for the construction of the mill?

FINDING

The Court found that there was a distinct contract for the payment of the preliminary work. This contract was enforceable even though negotiations for the formal contract had broken down.

QUOTE

The referee said:

“The plaintiffs indicted that they would regard receipt of a letter of intent as an acceptance of their offer. Such a letter was signed and sent and as it did not indicate negative acceptance of the offer, upon its receipt the offer was accepted and the ancillary contract came into existence.

It was not possible to find anything in the letter to convey to the recipients that the ancillary contract was rejected.

There had been nothing in the letter to convey to the plaintiff's anything other than acceptance of the ancillary contract.” – page 260 of (1972) Digest of Cases

IMPACT

Parties to contract negotiations must ensure that during the negotiations they clearly define the rights and responsibilities of all parties.

This is particularly important if one or both parties will be expending money or resources before the formal execution of a contract. In such a situation the responsibility for such money or resources should be clarified in writing as soon as possible.

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