4PB, 6th Floor,
St Martin's Court,
10 Paternoster Row,
London, EC4M 7HP
T: 0207 427 5200
E: clerks@4pb.com
W: 4pb.com

Barry Urquart Associates v East Surrey Health Authority

[2002] All ER (D) 142

22/01/2002

Barristers
Robin Barda

Court
Court of Appeal

Facts
The claimant, in this case, had no basis on which to claim fees in default of appointment.

Appeal by the claimant ('B') from the decision of HH Judge Hull QC where he dismissed B's claim for fees for work done in relation to a proposed development at a hospital site. The defendants instructed B by letter dated 26 April 1990 to proceed to Stage C of the Royal Institute of British Architects Guidance in respect of the development. The letter agreed a fee of £10,000 plus VAT in the event that B was appointed as project architect for the total scheme. It further agreed that in the event of another architectural practice being appointed for the final scheme, B would be reimbursed on the basis of 15 per cent of five-and-a-half per cent of the agreed budget costs for the building and engineering contents of the scheme. B replied to that letter on 27 April 1990. B completed Stage C in May 1990 and submitted the relevant outline scheme to the defendants. In October 1990, after discussions between B and the defendants, B submitted a further, more detailed, outline scheme. In 1996 planning permission for the proposed development was refused. In April 1996 B claimed fees on the basis that another architectural practice had been appointed for the final scheme and therefore it was entitled to the percentage of agreed costs stated in the letter of 26 April 1990. The judge concluded that B was not entitled to any remuneration at all. He concluded that the letter of 26 April 1990 stated the contractual position and did not entitle B to any sum by reason of appointment of other architects in relation to the defendants' scheme and held that the scheme was not the same one as referred to in the letter of 26 April 1990. The judge concluded that B's only entitlement was to the £10,000 plus VAT that had been paid. On appeal, B submitted, inter alia, that the judge was wrong to have concluded that the letter of 26 April 1990 governed the contract.

Held
HELD: (1) The letter of 26 April 1990 intended to set out an oral agreement that was concluded on 25 April 1990. The letter of 27 April 1990 did not dissent to any of the contents of the letter of 26 April 1990. The letter of 27 April 1990 would be read purely as a letter that confirmed the fees for work done as set out in the letter of 26 April 1990. Accordingly, the basis of the claim fell away. (2) There was no other basis upon which B could claim anything other than the £10,000 plus VAT for preliminary work carried

out.

Permission