

## Reliance on Pre-Contract Negotiations Revisited

The 2007 case involving Persimmon Homes and landowner Chartbrook Ltd. has now been decided in the House of Lords. The case turned on the meaning of an agreement which contained a 'grammatical ambiguity', which applied to a formula used to calculate the sum due under a property contract. This led Chartbrook to claim more than £4 million from Persimmon. Persimmon calculated its liability at under £900,000, basing its argument on pre-contract negotiations.

The Court of Appeal had rejected Persimmon's claim, ruling that relying on definitions of terms agreed in pre-contract negotiations was only appropriate when a claim for rectification was made. Rectification is the phrase used for a contract being altered to mean what both parties to it thought it meant originally. No claim for rectification of the contract had been made in the initial case, so the Court could not entertain one. In any event, the meaning of the contract was clear.

Persimmon appealed to the House of Lords, which overturned the decision of the Court of Appeal. It ruled that interpreting the contract under the ordinary rules of syntax made it commercially nonsensical. The contract had to have the meaning that a reasonable person would have understood to be the intention of the parties to it when it was made.

We can assist you to make sure that the contract you sign incorporates the exact terms agreed in your negotiations.