

JUS5260/JUR1260 – English Law of Contract

Spring 2012

Answer all the following questions. Question 1 and question 2 carry equal weight in the marking of the answers.

QUESTION 1

Blake Contractors Ltd was hired by Glenshee Resorts Ltd on 1 July 2011 to build an extension to a holiday complex in the popular skiing resort of Glenshee in Scotland. The contract provided that the Glenshee Hotel – an existing hotel owned by Glenshee Resorts Ltd – was to be complemented by the construction of 20 holiday cabins. It was agreed that all the cabins were to be completed by 1 October 2012. The construction of the cabins started on schedule. Twenty percent (20%) of contract fee was to be paid by 1 August 2011 to Blake Contractors Ltd, which sum was duly paid. The contract also stipulated that the contract, and any disputes arising out of it, were to be governed by English law.

Consider separately each of the following 2 scenarios in relation to the above narrative and answer all the questions below:

Scenario 1:

Though work started on schedule, by 1 September 2011, it became clear that there was a serious shortage of skilled labour in the Glenshee area as well as difficulty in obtaining adequate supplies of bricks and timber. This, it was estimated by Blake Contractors Ltd, was going to severely delay the completion of all the cabins by some 9 to 12 months. After further inquiry, Blake Contractors Ltd found that they may source adequate supplies of bricks and timber from a different supplier but that the additional costs of transportation would increase Blake Contractors Ltd's costs by a further 50%. Blake Contractors Ltd claimed that the contract has been discharged by frustration.

Is the contract between Glenshee Resorts Ltd and Blake Contractors Ltd frustrated? Could Blake Contractors Ltd have protected better its position in its contract with Glenshee Resorts Ltd with regards to the difficulty that arose later with the sourcing of material?

Scenario 2:

Ignore the facts in scenario 1. Work on the cabins had progressed at a steady pace and by the end of March 2012, fifteen cabins were half-built and the foundation was laid for the other five cabins. April 2012 was a month of unusual heavy rainfall. On the night of the 27th April, there was a massive landslide which caused two tower cranes on the cabin construction site to topple over and crash onto the half-finished cabins. Most of these cabins were destroyed – crushed by the toppled cranes and buried under the mud from the landslide which covered the whole construction site. The Glenshee Hotel was also extensively damaged by the landslide.



Is the contract between Blake Contractors Ltd and Hotel Resorts Ltd frustrated? If the contract is frustrated, what would be the consequences **at common law** of the frustration? (**Note**: You do **not** need to discuss the consequences pursuant to the Law Reform (Frustrated Contracts) Act of 1943).

QUESTION 2

In Chapter 4 of her *Textbook on Contract Law*, Jill Poole analysis the doctrine of consideration and states that “[p]romises to accept less than is owed under the existing contract have long troubled English courts.” (Oxford University Press, 10th ed., 2010, p. 149).

Discuss the above statement, and distinguish between contractual variations involving a promise to accept less and contractual variations involving a promise to pay more.