

Adjudication Case Summaries

This paper provides a brief summary of cases that have been referred to the independent adjudication process available under the Consumer Code for Home Builders scheme. The list will be added to as cases are decided upon by the Adjudicator.

Adjudication Case 19 – December 2013 – 117130019

Complaint

The Home Buyer asserted that the Home Builders published incorrect marketing material in relation to the cost of service charges for the Property.

Defence

The Home Builders denied liability.

Finding

Adjudicator found the claim could not succeed.

Decision

The published material which was provided by the Home Buyer was published by the Home Builders after contracts had been exchanged. Furthermore, the Home Builders provided evidence that the Home Buyer's solicitors had been provided with accurate service charge estimates prior to the exchange of contracts. Therefore, whilst the Home Builders had published incorrect marketing material in general, the Home Buyer could not have relied upon it to his detriment. Thus, no actual loss or detriment was established by the Home Buyer.

Adjudication Case 18 – December 2013 – 117130018

Complaint

The Home Buyer stated that she was sold the incorrect property, and that the issue was not resolved until a year later. The Home Buyer also stated that the Home Builders failed to handle her complaints appropriately. The Home Buyer sought a payment of £3500.00 for the cost of putting right the matters complained of, and £250.00 for the inconvenience caused.

Defence

The Home Builders accepted that an administrative error on their part had resulted in the wrong plot being recorded on the reservation form and subsequently on the contract for sale, which led to the incorrect property being conveyed to the Home Buyer. However, the Home Builders state that the Home Buyer's solicitor should have picked up on the error, so the Home Buyer should bring a claim against her solicitor.

Findings

The Home Builders were in breach of Sections 2.6 and 3.1 of the Code by entering incorrect information into the reservation agreement and contract for sale. The Home Builders also failed to respond to the Home Buyer's complaint in a timely manner, and were therefore in breach of Section 5.1 of the Code. The Home Buyer justified a payment of £250.00 for the inconvenience caused, but no evidence of a monetary loss was provided and so no further payment was made to the Home Buyer.

Decision

The Adjudicator found that the Home Buyer's claim succeeded in part and awarded the Home Builders to pay the Home Buyer £250.00 for the inconvenience caused and reimburse the Home Buyer's registration fee of £120.00.

Adjudication Case 17 – December 2013 – 117130017

Complaint

The Home Buyer asserted that the Home Builders failed to provide relevant pre-purchase information as to the risk of subsidence and flooding to his property. Had this been provided he would not have entered into the reservation agreement or contract.

The Home Buyer sought that the flood issue be addressed or; the property price be reduced or; release from the contract plus compensation. He sought compensation of £6000.00 plus £250.00 for inconvenience.

Defence

The Home Builders denied liability.

Findings

The Home Builders were required to give pre-purchase information as stipulated at clause 2.1 of the Code. This did not extend to providing information on the risks of flooding or subsidence and therefore no breach was proven.

Decision

The Adjudicator found the claim did not succeed.

Complaint

The Home Buyer asserted that the Home Builders provided incorrect pre-purchase information in regards to service charge estimates. The service charges were much higher than initially expected.

The Home Buyer sought an apology; an explanation; compensation of £6160.00 plus £250.00 for inconvenience.

Defence

The Home Builders denied liability.

Findings

The Home Builders breached clause 1.5 and 2.1 of the Code as they did not provide a full breakdown of service charges in their marketing material as required. However, the Home Buyer was given an accurate service charge estimate prior to exchange of contracts, he relied upon this figure and, it was on this basis that the parties exchanged contracts. Therefore it was found that no loss has been suffered by the Home Buyer in regards to the incorrect marketing material as he proceeded to exchange based upon the correct information.

Decision

The adjudicator found that the claim did not succeed.

Adjudication Case 15 – December 2013 – 117130015

Complaint

The Home Buyers stated that their choice of a legal representative was restricted, and that the property was marketed with a service charge estimate that was much lower than what was charged after completion. The Home Buyers sought a payment of £5634.00 for the cost of putting right the matters complained of, an apology, an explanation, for the Home Builders to take an action, and £250.00 for the inconvenience caused.

Defence

The Home Builders stated that the choice of legal representative was always left to the Home Buyers, and that all information given to the Home Buyers was correct when it was given. The Home Buyers were aware that there would be additional service charges prior to the exchange of contracts.

Findings

The adjudicator found that the Home Builders were in breach of Section 2.5 of the Code by stating on the reservation form that the reservation was subject to the Home Buyers using one of the Home Builders' recommended solicitors. The Home Builders were also in breach of Sections 2.1 and 2.6 of the Code by providing incomplete and unclear information on the reservation agreement, which indicated that the service charges would be less than they turned out to be. However, the Home Builders remedied this prior to exchange of contracts, so that by the time of the sale the Home Buyers were aware of the correct service charges that would be applied.

Decision:

The Adjudicator found that the Home Buyers' claim succeeded in part and awarded the Home Buyers £250.00 for the inconvenience caused, an apology, and the reimbursement of the registration fee.

Adjudication Case 14 – December 2013 – 117130014

Complaint

The Home Buyer alleged that the Home Builders misadvised them in regards to the nature of a recycling site located near the property. The Home Buyer sought to be provided with £10,000.00 for the loss incurred plus £250.00 for inconvenience.

Defence

The Home Builders denied that it had breached the code and submitted that the customer had failed to provide any evidence of the alleged conversation that took place between an unidentified employee and the Home Buyer prior to the purchase, regarding a recycling site near the property.

Findings

There was a lack of substantive evidence that the Home Builders failed to provide clear and truthful sales and advertising in relation to the Property or that it failed to give appropriate information about the Property to help the Home Buyer make an informed decision about the purchase.

Decision:

The Adjudicator found that the claim was unable to succeed.

Complaint

The Home Buyer asserted that the Home Builders failed to adhere to the specification provided pre-purchase. The Home Buyer sought that the back garden be re-profiled and compensation in the sum of £250.00 for inconvenience.

Defence

The Home Builders denied liability.

Finding

The Home Builders were entitled to make minor changes to the specification without the Home Buyer's agreement and therefore they did not have to re-profile the back garden. However, the Home builders should have notified the Home Buyer prior to making the change and as the failure to do so caused the Home Buyer inconvenience

Decision

The Adjudicator found the claim succeeded in part. The adjudicator directed that the Home Builders pay compensation in the sum of £250.00.

Adjudication Case 12 – November 2013 – 117130012

Complaint

The Home Buyers alleged that the Home Builders misrepresented that the purchase price offered in relation to the property was a marked down price. It was not and the misrepresentation had caused them to incur a loss as it had taken away their right to negotiate a better deal. The Home Buyers sought to be provided with £10,000.00 for the loss incurred plus £120.00 for inconvenience and an apology and an explanation.

Defence

The Home Builders denied it misrepresented the price of the property. The purchase price ultimately paid by the Home Buyers was the same as the price provided pre-contract.

Finding

Based on the evidence provided, it was clear that the purchase price ultimately paid by the Home Buyers was the same as the price given to them by the Home Builders pre-purchase. There was a lack of substantive evidence that the Home Builders sales and advertising material and activity had not been clear and truthful, in breach of the Code.

Decision

The Adjudicator found that the claim was unable to succeed.

Adjudication Case 11 – October 2013 - 117130011

Complaint

The Home Buyer submitted that the sales brochure for the property stated that sash windows would be installed at the property, but when the property was built sash windows were not provided.

Defence

The Home Builders stated that its sales brochure was not a contractual document and could not be relied upon in isolation.

Finding

The Adjudicator found that the claim did not succeed. The sales brochure contained a clear disclaimer that it was for guidance only and should not be relied upon. Further, the technical drawings that the Home Buyer had sight of made clear that sash windows would not be installed at the property.

Decision

No breach of the Code was found to have taken place.

Adjudication Case 10 – September 2013 - 177130010

Complaint

The Home Buyer asserted that the Home Builders failed to build the property as per the specification. The Home Buyer sought compensation in the sum of £14,871.43.

Defence

The Home Builders denied liability.

Finding

Adjudicator found the claim succeeded in part and directed compensation of £8808.00.

Decision

The Home Builders should not have made any significant and substantial variations to the specification of the property without the Home Buyer's consent. A number of the variations made were significant and substantial and the Home buyer's were therefore entitled to the reasonable costs of rectifying these matters.

Adjudication Case 9 – September 2013 - 177130009

Complaint

The Home Buyers' submitted that the Home Builders' deliberately misrepresented certain important facts about the property, as a result of which they were forced to cancel the Reservation Agreement.

The Home Buyers stated that they had been reimbursed the sum of £500.00 from their Reservation fee of £1,000.00 and were seeking a reimbursement of the remainder. The Home Buyers also requested recompense for the solicitor's fees they had incurred in cancelling the purchase of the Property as well as those incurred in the sale of their existing property - from which their buyer had withdrawn due to the delay in the expected completion time. The Home Buyers also claimed a sum of compensation for inconvenience, travelling expenses and arrangements for the move.

Defence

The Home Builders submitted that they followed strict guidelines regarding information given to their clients. The Home Builders further submitted that only when the property was due to exchange did the Home Buyers raise any queries via their solicitors which they promptly replied to. The Home Builders asserted that based on their terms and conditions as set out on the Reservation Agreement, they were entitled to retain £500.00 from the Reservation fee for administration costs.

Finding

The Adjudicator found that the claim succeeded in part.

The Home Builders' refund policy did not adhere to the Code. However, the Adjudicator was not satisfied that the Home Buyers' claim for reimbursement of the fees paid to their solicitors was able to succeed.

Decision

The Adjudicator awarded the Home Buyer a reimbursement of the remainder of the Reservation fee in the sum of £500.00 and £250.00 compensation for inconvenience caused.

Adjudication Case 8 – June 2013 - 117130008

Complaint

The Home Buyer asserted that the Home Builders failed to provide appropriate refunds when she withdrew from the sale. The Home Buyer sought compensation in the sum of £2844.00.

Defence

The Home Builders denied liability.

Finding

Adjudicator found the claim succeeded in part and directed compensation of £500.00.

Decision

The Reservation fee of £500.00 was refundable as the Home Builders had not stipulated the deductions that could be made from this in the Reservation Agreement as required under the Code. The other refunds sought related to deposits paid down for extra work. The agreement for extra work was not covered by the Code and therefore no breach of the Code was found.

Adjudication Case 7 – June 2013 - 117130007

Complaint

The Home Buyer asserted that the Home Builders failed to construct the driveway properly. The Home Buyer sought an apology, an explanation and rectification of the driveway.

Defence

The Home Builders denied liability.

Findings

Adjudicator found the claim was unable to succeed.

Decision

The Home Buyer's assertions that the workmanship of the Home Builders was poor and that the driveway was unsafe to use did not relate to breaches of the Code. The Home Buyer failed to prove that the driveway was constructed contrary to either the pre-purchase information or the specification. Therefore no breach was found.

Adjudication Case 6 – June 2013 - 117130006

Complaint

The Home Buyer submitted that he reserved a property and incurred various charges in anticipation of purchasing the property. However, as a result of the Home Builders failing to obtain planning permission for the property, the Home Buyer had to cancel his purchase because his bank revoked his mortgage. The Home Buyer sought an assurance that this does not happen to other buyers, compensation in the amount of £2168.00 and compensation in the amount of £250.00 for the inconvenience caused.

Defence

The Home Builders submitted that they had already taken appropriate action and offered suitable resolutions to address the Home Buyer's concerns. The Home Builders did not accept any further liability to the Home Buyer.

Findings

Adjudicator found that the claim succeeded in part. The Home Builders had breached the code by not obtaining planning permission on the property and failing to respond to the Home Buyer's questions within a reasonable time. However, a significant portion of the losses claimed by the Home Buyer were not substantiated in evidence. The Home Buyer's claim for an assurance that these events would not occur to other buyers in the future was found to be beyond the scope of the scheme.

Decision

Adjudicator awarded the Home Buyer a total of £1695.00 in compensation.

Adjudication Case 5 – May 2013 - 117130005

Complaint

The Home Buyer submitted that the Home Builders failed to construct a gated entranceway to the property in accordance with the approved plan. This has affected the approach angle of the driveway and made it impossible to drive a 4x4 vehicle onto the Property. The Home Buyer sought compensation in the sum of £11932.53.

Defence

The Home Builders submitted that the Home Buyer requested the change to be made to the gated entranceway of the property. The Home Builders submitted that they informed the Home Buyer that the gate would have to be reduced in width, and they produced a technical drawing showing this, which the Home Buyer accepted.

Finding

Adjudicator found that the claim succeeded in part. It was not in dispute that the Home Buyer requested a change to be made to the gate. However, no evidence was provided that proved the Home Builder's consulted the Home Buyer regarding the changes. This was a breach the Code. However, a significant portion of the losses claimed by the Home Buyer were not substantiated in evidence.

Decision

Adjudicator awarded the Home Buyer £5961.77 as compensation and £120.00 for reimbursement of the Registration fee was directed.

Adjudication Case 4 – April 2013 - 117130003

Complaint

The Home Buyer alleged that the Home Builders misrepresented the Service Charge estimate presented in their pre-purchase information. The Home Buyer sought to be provided with £15,000.00 for her ongoing losses over 25 years, being the period of a typical mortgage.

Defence

The Home Builders denied it misrepresented the Service Charge estimate provided in their pre-purchase information.

Finding

Adjudicator found that the claim succeeded in part. The evidence provided showed that the Service Charge estimate presented in pre-purchase information did not provide sufficient information about the additional costs that ought to have been reasonably included by the Home Builders, in breach of the Code.

Decision

Adjudicator awarded the Home Buyer £2703.60 based on the extra the Home Buyer was likely to pay over a timeframe of 5 years and was the difference between the Service Charge estimate as provided in the pre-sales information and the actual service amount. Recoverable costs were limited to a period of 5 years as this was found to be a more likely timeframe to spend in one property.

Adjudication Case 3 – May 2013 - 117130002

Complaint

The Home Buyer asserted that the Home Builders had significantly varied the specification of the patio doors without notice or agreement and that this had affected the property value. The Home Buyer sought replacement doors and compensation in the sum of £5110.00.

Defence

The Home Builders denied liability.

Finding

Adjudicator found the claim was unable to succeed.

Decision

The variation to the patio doors was minor and the Home Buyer had not proven this had affected the property value. The Home Builders should have notified the Home Buyer of the change but did not need his agreement to proceed. As the Home Builders could have proceeded with or without agreement no loss had been suffered as a result of the failure to give notice and therefore the claim was unable to succeed.

Adjudication Case 2 – February 2013 - 117130001

Complaint

The Home Buyer submitted that the Home Builders used underhanded tactics surrounding the part exchange of his home, there were a lot of remedial works to be carried out on the Property once it was purchased and a lamp post was placed on the Home Buyer's property without permission. The Home Buyer submitted that the Home Builders did not respond adequately to his complaints. The Home Buyer sought £11149.00, an apology, an explanation, a refund and £250.00 for inconvenience.

Defence

The Home Builders denied that they used underhanded tactics and submitted that remedial works had been carried out at no cost to the customer. Furthermore, the Home Builders submitted that the Lamp post issue is not within the remit of CCHBAS.

Finding

Adjudicator found that the claim did not succeed. The evidence provided did not substantiate the Home Buyer's assertion of any underhanded tactics used by the Home Builders. The remedial works were carried out in accordance with the Code and the placement of the lamp post was not a breach of the Code.

Decision

No breach of the Code was found to have taken place.

Adjudication Case 1 – January 2013 - 117120018

Complaint

The Home Buyer submitted that due to various circumstances, a meeting with the Home Builders to agree additional extras never took place. The Home Buyer stated that he had always made it clear to the Home Builders that he was reluctant to sign the missives until he had been given the costs for the additional extras, in the absence of which he therefore reluctantly agreed to give up the plot.

Defence

The Home Builders refuted the Home Buyer's Claim. The Home Builders submitted that the Reservation fee was not refunded as all sales materials clearly stated the refund terms and conditions, and that the Reservation and missive period were not subject to the Home Buyer receiving confirmation prior to concluding missives of the additional extras and alterations.

Finding

The Adjudicator found that the claim succeeded in full. The Home Builders' refund policy did not adhere to the Code.

Decision

The Adjudicator awarded the Home Buyer £700.00 comprising of: £500.00 in reimbursement of the Reservation fee; £120.00 to cover the cost of the Home Buyer's case registration fee; and £80.00 for the inconvenience caused by the Home Builders' failure to adhere to the Code.