

## **DIMINISHING ASSET**

### **General Information**

#### **Background**

David and Penny Sheppard had a dream. They wanted to restore an old barn and convert it to live in their retirement. The trouble with most old barns is that they are in isolated positions, often close to a working farm, so they hit on the idea of buying a restored barn frame from Barn Reclamation Ltd and erect it on a new site. They could then clad it and construct the internal layout to their own design.

So six years ago they paid BRL £50,000 for an ancient barn frame including necessary repairs, delivery and erection onto prepared foundations. As they had not yet identified a site they also agreed with BRL that they would pay £300 per month for storage in their warehouse plus insurance and paid another £2,000 to BRL for six months from the date of readiness (for delivery).

Unfortunately, two months after the purchase, David's employer went bust and he suddenly had no job and no redundancy. After long, heartbreaking deliberations, David and Penny decided that they could not proceed with their dream and eventually contacted BRL and agreed with them that BRL would sell their barn frame to another party.

David and Penny moved several times, chasing work, and everything went quiet for a year or two. Then their fortunes changed. They set up their own specialist computer software business and gradually their dream looked possible again. They found a plot of land and contacted BRL about recovering their barn. After several failed attempts to speak with BRL they discovered that their barn had been sold to an American buyer for £35,000 and was in the process of being shipped to the USA. Needless to say, they were very upset at losing their barn, especially at such a discounted rate, and they were even more upset when BRL wrote to them saying that there was no money left from the sale as it had been used up by storage charges, insurance and shipping.

David and Penny believed that they were being swindled and so consulted a solicitor who wrote to BRL demanding the return of the Sheppard's £50,000 together with interest and costs. BRL went silent. The solicitor tried a few more times and then issued proceedings. Claim and Defence have been served and now both solicitors have agreed to mediate.

## **Dispute**

The Sheppard's claim is straightforward. They require their money back, with interest, and their costs in recovering their money.

BRL have produced a statement (attached) showing their costs which wipe out all the proceeds from the sale. The Sheppards contest the costs on the basis that they have never been agreed and that BRL, as their agent, should have kept them aware of the financial situation on a regular basis. BRL have responded on the first point by saying all the costs can be proven and, on the second point, that BRL had no address for the Sheppards once they had moved.

## **Attending the mediation**

Either David or Penny Sheppard  
Their solicitor

MD of Barn Reclamation Ltd  
BDL solicitor

Mediator(s)