

Architects failed to design to a budget

This blog post and our recent article look at *Riva Properties Ltd and others v Foster + Partners Ltd* [2017] EWHC 2574 (TCC).

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This professional negligence claim against a firm of architects concerned the design of a hotel from RIBA Stages A to L (currently RIBA work stages 0-6). The claimants maintained they had notified the architects of the overall budget of £70m but when the hotel design was costed, the estimated cost was £195m so the hotel could not be funded. The architects had informed the claimants on receipt of the costings that the hotel design could be value engineered to a budget of £100m but this was not in fact possible.

The court found the architects to be in breach of contract by not identifying any budgetary constraints to the design as they should under RIBA Stages A/B. In addition, the architects should have advised the claimants that it was not possible to value engineer the design down to £100m.

The claimants were awarded £3.6m due to the breaches of contract and the losses they suffered in instructing new architects and obtaining new planning permission.

The claimants were not successful in claiming loss of profits as there was a break in the chain of causation, with contributing factors to their inability to obtain funding being lack of cash reserves and the 2007 financial crisis.

A further issue before the court was whether the architects owed a duty of care to the claimants' group companies. The claimants had the right to call for collateral warranties from the architects to the group companies, or to assign the benefit of the appointment in their favour, but did not do either so there was no contractual link between the architects and the group companies. The court applied the test from *Caparo Industries v Dickman* [1990] 2 WLR 358 and found that no duty of care was owed.

Read our article "[Are architects obliged to advise on budget? The recent professional indemnity judgment and the implications for duty of care](#)" for further information.

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