

Partridge v Lawrence [2003] ADR.L.R. 07/08

CA on appeal from the Bristol County Court (Mr Recorder Barnes) before Peter Gibson LJ, Clarke LJ, Dyson LJ. 8th July 2003.

JUDGMENT : LORD JUSTICE PETER GIBSON:

1. We are now asked to determine who should bear the costs of this litigation. We have been shown correspondence which indicates that at a comparatively early stage the defendants made a very reasonable offer which, in the light of the outcome of this litigation, conforms with the decision of this court, that is to say that the width of the field access was only 5.5 metres. Had that offer been accepted it would have brought an end to the litigation, because that would have dealt with the other main issue dealing with the pre-conditions.
2. Our attention has been drawn to the fact that very late in the day on 24th June 2003 mediation was offered by the claimants. The fact that the claimants, for their own reasons, wished to involve the solicitors who had previously acted for them, Battens, does not really to our minds affect the matter as between the claimants and the defendants. We are entitled in awarding costs to have regard to the conduct of the parties and how reasonably they have behaved.
3. Having regard to all that has been urged on us by both sides, we are of the view that the appropriate order to be made is one which gives to the defendants, successful as they were on what was the important and main issue in the litigation, that is to say the width of the field access, the preponderance of their costs. We direct that 85 percent of the defendants' costs should be paid by the claimants here and below.

4. Order: As above.

MR JEREMY CALLMAN (instructed by Sharpe Pritchard Solicitors, London WC1V 6HG) appeared on behalf of the Appellants

MR PETER HARRISON (instructed by Lansdowne Solicitors, London N5 2UT) appeared on behalf of the Respondents