

Short Minutes Transcript – Contract for Sale: The Cost of a Simple Drafting Error

Twenty percent of Lawcover claims arise out of conveyancing transactions. Of those claims, one in four arise from errors in drafting or interpreting the contract terms.

A recent Supreme Court case highlights the importance of taking care when considering the GST provisions in a contract for sale of commercial property.

The solicitor correctly marked the box on the front of the contract indicating the sale was a taxable supply, and GST would be payable in full. However the solicitor did not redraft the standard provisions of the contract which provided that the sale would be *inclusive* of GST. The vendor intended the sale to be *exclusive* of GST.

The property sold for over 3 million dollars so the amount of the GST was not insignificant.

The purchaser relied on the standard provisions of the contract and refused to pay the GST in addition to the purchase price.

The vendor commenced proceedings to rectify the contract. The Supreme Court heard evidence over two days as to the intentions of the parties and what transpired at the auction.

Based on the evidence the contract was rectified and the purchaser had to pay the GST as well as the purchase price.

This extensive and no doubt expensive litigation resulted from contradictory clauses in a contract for sale of land.

Although much of it is in standard form, the contract for sale of land is a complex document and it requires a solicitor's full thought and attention during drafting.

A link to the case can be found below:

[SAMM Property Holdings Pty Ltd v Shaye Properties Pty Ltd \[2016\] NSWSC 362](#)

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