

Insights

PARAGON GROUP LIMITED V FK FACADES LIMITED – ASSIGNEES AND ADJUDICATION

Mar 06, 2026

SUMMARY

In this BCLP Insight, Isaac Dundas reviews the recent decision of Paragon Group Limited v FK Facades Limited [2026] EWHC 78 (TCC). Here, the Technology and Construction Court (TCC) had to determine whether an assignee of a building contract had the right to refer a dispute to adjudication.

BACKGROUND

The contractor, FK Facades Limited (FK), entered into an amended JCT 2016 Minor Works Contract (Contract) with the employer, Office Depot International (UK) Limited. The Contract was for remedial works to a property in Manchester. The employer had initially assigned the Contract to OT Group Ltd. OT Group Ltd then subsequently assigned the Contract to Paragon Group Limited (Paragon).

A dispute had arisen between Paragon and FK regarding delays to completion of the remedial works for which Paragon sought liquidated damages from FK, asserting that it was liable for the delay. Paragon referred the dispute to adjudication.

The adjudicator decided in Paragon's favour, awarding Paragon £80,500. When FK did not make payment, Paragon commenced proceedings to enforce the adjudicator's decision in the TCC.

The issue for the TCC was whether Paragon (as an assignee of the Contract) had the right to refer the dispute to adjudication. If Paragon was not entitled to refer the dispute to adjudication, then the decision would not be enforced.

THE CONTRACT

Before we go further, the key provisions of the Contract are summarised as follows:

- Article 6 (Adjudication): *“If any dispute or difference arises under this Contract either Party may refer it to adjudication in accordance with clause 7.2”*
- Clause 7.2 stated that *“If a dispute or difference arises under this Contract which either Party wishes to refer to Adjudication the Scheme shall apply, except for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars”*.
- The Contract’s assignment clause (clause 3.1) had been amended as follows:

“1. the Employer may assign or charge the benefit of this Contract at any time without the Contractor’s consent;

2. the Contractor shall not assign, novate or charge the benefit of this Contract without the Employer’s prior written consent.”

JUDGMENT

The Court ruled in favour of Paragon holding that, as an assignee of the Contract, it was entitled to refer a dispute to adjudication in accordance with the Contract and the Scheme for Construction Contracts (England and Wales) Regulations 1998. As a result, the Court ordered FK to make payment.

Paragon’s argument concerned the implications of statutory assignment (in other words, section 136 of the Law of Property Act 1925). Specifically, they stated that statutory assignment included the assignment of “the legal right to such debt or thing in action” and the assignment of “all legal and other remedies for the same”. Paragon had argued that reading the general law on assignment with the terms of the Contract (as extracted above) showed that Paragon had the right to refer a dispute to adjudication. The Court accepted this and held that, “absent express provision to the contrary”, statutory assignment also included the right to refer a dispute to adjudication.

Meanwhile, FK sought to rely on the literal interpretation of the Contract. The Scheme (which had been incorporated into the Contract by Clause 7.2) states that *“any party to a construction contract (the “referring party”) may give written notice (the “notice of adjudication”) of his intention to refer any dispute arising under the contract, to adjudication”*. FK argued that as Paragon was not a named party to the Contract either as the employer or the contractor, it could not seek to rely on the Contract and refer the dispute to adjudication.

The Court stated that FK’s argument had “the benefit of simplicity” because if the “party” was defined as only the employer or contractor and the Scheme refers to *“any party to the construction contract”* then it is only the employer or the contractor who would be able to refer the dispute to adjudication. That being said, the Court went on to consider the references within the Scheme to which it stated that there was a lack of certainty in the drafting of the Scheme which could

imply that the drafters of the Scheme had not intended to distinguish between the original parties to the contract and any subsequent assignees. Further, the Court held that it did not see that it is an issue if the reference to “party” within the Scheme can include “or any legal assignee of such party, where applicable” without causing significant impacts of the drafting in the Scheme.

The Court also held that if the original contracting parties wanted to prevent assignees from bringing a dispute for adjudication, they could simply add a wording in the contract to that effect.

FINAL THOUGHTS

As the judge noted, this was a new point on which there was no authority. This decision provides further certainty for people involved in drafting construction contracts. Assignment provisions are often considered a boilerplate provision and their implications are not always considered in great detail. However, they play an incredibly useful and important role within Construction. The decision from the TCC is a useful reminder about the rights and obligations parties have when a contract has been assigned. It is also useful reminder about the need to ensure that the parties’ true intentions have been captured.

This will be a case to keep an eye on. Given that the Court have granted FK permission to appeal this decision to the Court of Appeal, the position may well change if the Court of Appeal takes a different view. Could this be another construction dispute which ultimately finds itself in the Supreme Court? Wherever it ends up, professionals within the construction industry should be wary about any further developments as it may have practical implication on assignment rights in construction contracts.

RELATED CAPABILITIES

- Commercial Construction

MEET THE TEAM



Isaac Dundas

Associate, London

isaac.dundas@bclplaw.com

[+44 \(0\) 20 3400 4287](tel:+442034004287)

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.