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Darchem Engineering Ltd v Bouygues Travaux Publics & Anor [2026] EWHC 220 (TCC) – When “All of the Above” Means Exactly Two

[Darchem Engineering Ltd v Bouygues Travaux Publics & Anor \[2026\] EWHC 220 \(TCC\)](#)

Date: 6 February 2026

Judge: Mr Justice Constable

Key Words:

Adjudication Enforcement, Summary Judgment, Unincorporated Joint Ventures, Contract Interpretation, Jurisdiction, Definition of "Party", Construction Law, Joint and Several Liability, Bilateral Contracts

Summary

This case concerns an application for summary judgment by the Claimant, Darchem Engineering Limited ("Darchem"), to enforce an adjudicator's decision awarding them approximately £23.9 million [1]. The underlying dispute involved a Subcontract for work at the Hinkley Point C nuclear power station between two unincorporated joint ventures (JVs): the Main Contractor ("BYLOR") and the Subcontractor ("EDEL"), of which Darchem was one of two members [2].

The central issue was whether Darchem, as a single member of the Subcontractor JV, had the contractual right to commence adjudication proceedings in its own name [2]. The Court found that Darchem was not defined as a "Party" under the Subcontract and therefore lacked the jurisdiction to invoke the adjudication clause unilaterally. Consequently, the application for summary judgment was refused [43].

Key Themes:

1. **Contractual Interpretation:** *The conflict between definitions in the "Agreement" portion of a contract versus the "Conditions of Subcontract," and the necessity of construing the contract as a whole [8, 11-12].*
2. **Unincorporated Joint Ventures (JVs):** *The distinction between the joint and several liability of JV members and their individual rights to commence dispute resolution proceedings [24, 29-31].*
3. **Adjudication Jurisdiction:** *Whether a single entity within an unincorporated JV has standing to*

bring adjudication proceedings without its partner [3].

4. **Definition of "Party":** The precise contractual definition of who constitutes a "Party" in complex multi-party or JV agreements [14].

Background

1. **The Project:** The Subcontract related to the manufacture and installation of stainless-steel pools and tanks for the Hinkley Point C nuclear power station [2].
2. **The Entities:**
 1. **The Contractor (BYLOR):** A JV comprising Bouygues Travaux Publics and Laing O'Rourke Delivery Limited [2].
 2. **The Subcontractor (EDEL):** A JV comprising Darchem Engineering Limited and Framatome Limited (formerly Efinor) [2].
3. **The Dispute:** Darchem commenced three adjudications in its own name, stating it was "acting jointly and severally as the Subcontractor." The Defendants challenged the adjudicator's jurisdiction in each instance, arguing Darchem was not a party to the Subcontract capable of adjudicating alone [2-3].
4. **The Proceeding:** Darchem sought to enforce the third adjudicator's decision in the High Court. The Defendants resisted enforcement on the grounds that the adjudicator lacked jurisdiction because Darchem was not a "Party" under the dispute resolution clause (Option W) [3, 14].

Legal Issues and Analysis

The primary legal question was whether Darchem qualified as a "Party" entitled to seek adjudication under **Clause 2.2 of Option W** of the Subcontract [14].

1. **The Claimant's Argument (Darchem)** Darchem argued it was a "Party" based on the **Agreement** section of the Subcontract:
 1. The Agreement lists four entities (the two members of the Contractor JV and the two members of the Subcontractor JV) and states: "*All of the above are together known as the 'Parties'*" [2-4, 15].
 2. Darchem executed the deed individually [15(4)].
 3. Darchem relied on the principle that where a contract confers rights on joint promisees, one promisee can sue in its own name [36(2)].
2. **The Defendants' Argument (BYLOR)** BYLOR argued the Subcontract was bilateral (between two JVs), not multilateral (between four companies):
 1. **Clause 11.2(11)** of the Conditions explicitly defined "Parties" as "*the Contractor and the Subcontractor*" [10(1)-(2)].
 2. The contract consistently used bilateral language like "either Party," "neither Party," and "the other Party" [17].
 3. Specific clauses (like Clause 91.1) contained deeming provisions treating JV members as individual parties *only* for specific events like insolvency, implying they were not "Parties" generally [18].
3. **The Court's Analysis** Mr Justice Constable ruled in favour of the Defendants, relying on the following reasoning:
 1. **Contractual Consistency:** The Conditions of Subcontract strongly evidenced a bilateral agreement. The definition of "Parties" in Clause 11.2(11) (Contractor and Subcontractor) was consistent with the usage of "either" and "both" throughout the text [17, 25-26].

2. **Interpretation of the Agreement:** The phrase "All of the above are together known as the 'Parties'" in the Agreement did not create four distinct parties. Instead, it meant the four entities *grouped together* formed the two "Parties" (Contractor and Subcontractor) [25].
3. **Hierarchy of Documents:** Even if there were a conflict, the Agreement expressly stated that words shall have the meanings assigned in the Conditions of Subcontract. Thus, the definition in Clause 11.2(11) (limiting "Parties" to the two JVs) prevailed [27].
4. **Joint and Several Liability vs. Rights:** While JV members had joint and several *liability* (Clause 12.6), this did not automatically confer a unilateral *right* to adjudicate. Clause 12.6 required a "leader" to be notified to bind the JV, which had not occurred [31-32].
5. **Commercial Practicality:** If every JV member were a separate "Party," it would lead to procedural chaos. For example, four different entities could theoretically commence four parallel adjudications on the same payment dispute [39-40].

Conclusion

The Court concluded that Darchem was not a "Party" as defined in the Subcontract [43]. Therefore:

1. Darchem could not operate Clause 2.2 of Option W (the adjudication clause) in its own right.
2. Clause 12.6 regarding joint ventures did not grant Darchem authority to unilaterally commence adjudication on behalf of the JV.
3. The Adjudicator lacked jurisdiction, and the summary judgment application to enforce the decision failed [43].

Key Takeaway:

In construction contracts involving unincorporated joint ventures, individual JV members do not automatically possess the right to commence adjudication individually. Unless the contract expressly defines the individual members as separate "Parties" for the purpose of dispute resolution, the right to adjudicate belongs to the Joint Venture as a single entity. Ambiguities will likely be resolved in favour of a bilateral interpretation to avoid the "chaos" of multiple, overlapping proceedings [37-39].

Parting Thoughts

This judgment is a brisk, unsentimental reminder that contracts mean what they say, not what a disappointed claimant wishes they had said at 3 a.m. while staring at an unpaid £23.9 million adjudication award.

*Darchem's problem was not adjudication hostility, judicial squeamishness, or some hidden allergy to joint ventures. It was simpler, and therefore fatal. The Subcontract was built, bolted, and welded as a **bilateral contract between two JVs**, not a free-for-all among four companies. The Conditions said so. The definitions said so. The language screamed it repeatedly. And when the Agreement flirted with ambiguity, the Conditions calmly restored order.*

Joint and several liability did exactly what it says on the tin: it spread risk, not rights. It made Darchem financially brave, not procedurally omnipotent. Clause 12.6 allowed binding authority to be organised and notified; it did not quietly smuggle in a unilateral right to adjudicate while everyone else was still putting the kettle on.

The Court was also unimpressed by the alternative universe required for Darchem's case to work—one where six "Parties" roam a single contract, each capable of firing off adjudications at will.

That way lies procedural mayhem, conflicting decisions, and adjudicators multiplying faster than payment disputes at Hinkley Point. The contract contained no traffic lights for that junction, which was a fairly strong clue that it was never meant to exist.

So the result was inevitable. No standing, no jurisdiction, no enforcement. The adjudicator's decision, however muscular in quantum, was built on sand because the wrong entity pulled the trigger.

Bottom line:

If you are in an unincorporated JV, adjudication is not a solo sport unless the contract expressly hands you the keys. Liability may be several, but rights are not contagious. And if you want to adjudicate alone, you must first persuade the contract—not the court—that you are actually allowed to do so.

#ConstructionLaw, #Adjudication, #JointVenture, #ContractInterpretation, #TCC, #LegalUpdate, #HinkleyPointC, #DisputeResolution, #Infrastructure, #CommercialDisputes #ConstructionLaw #Adjudication #DisputeResolution #LegalUpdate #CaseLaw #DDAlegal

Authorities

Case Law:

Principles of Contractual Interpretation

1. **Rainy Sky SA v Kookmin Bank [2011] UKSC 50** - Cited to establish the fundamental principle that where parties have used unambiguous language in a contract, the court must apply it. This principle was central to the Judge's decision to enforce the specific definition of "Party" found in the Conditions of Subcontract over the Claimant's alternative interpretation.

Rights of Joint Promisees and Joint Liability

1. **Triple Point Technology, Inc v PTT Public Company Ltd [2021] UKSC 29, AC 1148** - Relied upon by the Claimant to argue that clear and express words are required to derogate from the normal rights of an individual entity (presumed to be a party) to pursue remedies in its own name. The Judge accepted the principle was not wrong but found it did not advance the Claimant's case because the Claimant did not meet the contractual definition of a "Party."
2. **McEvoy v The Belfast Banking Company Ltd [1935] AC 24** - Relied upon by the Claimant to argue that where a contract confers rights on two or more promisees (e.g., A and B), one of those promisees can sue in its own name without involving the others. The Judge accepted this principle but ruled it was predicated on the entity being a "Party" to the Subcontract, which the Court found the Claimant was not.

Legislation:

Statutory Adjudication Framework

1. **Housing Grants, Construction and Regeneration Act 1996 (HGCRA 1996)** - Cited to clarify the scope of the Claimant's argument regarding jurisdiction. The Court noted that the Claimant did not contend that the Subcontract failed to comply with section 108 of the Act. Consequently, the Claimant accepted that if they did not meet the contractual definition of a "Party," they could not rely on the Act to assert a statutory right to adjudicate.
2. **The Scheme for Construction Contracts ("the Scheme")** - Referenced in conjunction with the HGCRA 1996 to confirm that the Claimant was not seeking to invoke the statutory Scheme to establish jurisdiction. The Claimant's case rested entirely on the construction of the contract rather than any fallback entitlement under the Scheme.

Legal Texts & Commentary:

Contract Interpretation

1. **The Interpretation of Contracts, 8th Ed., Lewison** - Cited to reinforce the principle that where a contract explicitly defines a specific term or expression, the court is obliged to give effect to that agreed definition. The judgment notes that there is no permissible basis for ignoring a contractual definition save in exceptional circumstances.

Legal Status of Joint Ventures

1. **Julian Bailey's Construction Law (4th Ed., 2024)** - Referenced to establish that an unincorporated joint venture has no separate legal identity distinct from the individual venturers themselves. This point was used to explain why each constituent entity executed the deed individually—because the JV itself lacked the legal standing to do so—thereby rendering the individual signatures a neutral factor rather than proof that each entity was a separate "Party".

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ICE DRC CPD Committee Chairman

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CIArb Adjudication Panel Member since 2006

CIArb Arbitration Panel Member since 2006

CIC Adjudication Panel Member since 2010

FIDIC Adjudication Panel Member since 2021

ICE Adjudication Panel Member since 2021

Law Society Panel Arbitrator

RIBA Adjudication Panel Member since 2018

RICS Adjudication Panel Member since 2006

RICS Dispute Board Registered since 2013

TECSA Adjudication Panel Member since 2012

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