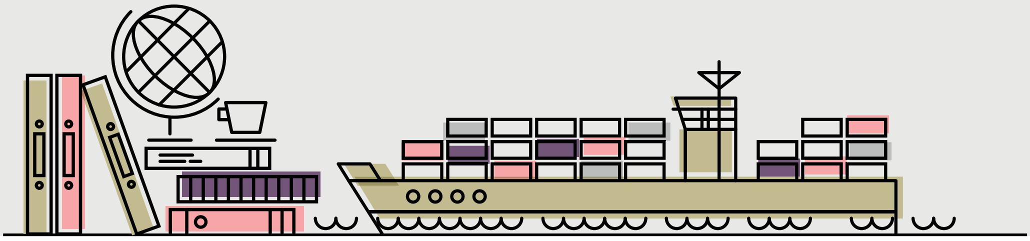
Point 45

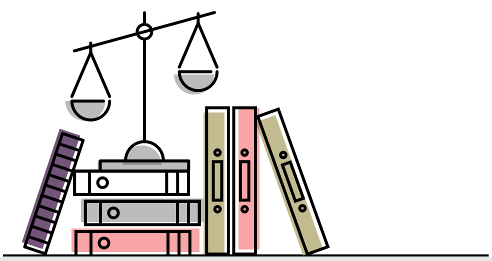


Commercial, maritime and arbitration law bullet points from 4-5 Gray's Inn Square

CA CONFIRMS THAT ASCERTAINMENT NOT REQUIRED FOR BUYER'S INSURABLE INTEREST IN A PART OF BULK GOODS

• It should now be recognised as a principle of English law that if neither property or risk has passed in goods, payment or part-payment of the price will give the buyer thereof an insurable interest, because if the goods were lost or damaged and the seller was insolvent, the buyer might not be able to recover the money which he had paid for them.

• The goods need not be ascertained or part of a sufficiently identified bulk for there to be such an insurable interest.



QUADRA COMMODITIES SA V XL INSURANCE COMPANY SE & ORS. [2023] EWCA Civ 432, CA, 21 April 2023

Q made 3 purchases of corn from A and 3 purchases of wheat or barley from L, both A and L being part of the "*Agroinvestgroup*". Those from A were DAT or DAP certain Ukranian ports, with 80% of the price payable against, inter alia, warehouse receipts and the balance against shipping documents. Those from L required payment of 100% of the price against, inter alia, a warehouse receipt, title to pass on such payment. Q paid 80% of the price under its contracts with A, and 100% under those with L. However, the Agroinvest Group had perpetrated a fraud by pledging / selling the same parcels of agricultural commodities to multiple traders using fraudulent warehouse receipts. Q could not take delivery of quantities it had purchased as above and claimed on its marine cargo policy (on, inter alia, ICC(A) clauses cl. 382 terms) with the defendant insurers. Insurers denied liability claiming, inter alia, that Q's loss was purely financial, as, insofar as any property was lost, Q could not show any insurable interest in it.

Butcher J allowed the claim holding, inter alia, that Q had shown that goods corresponding in quantity and description to the cargoes were physically present at the relevant warehouses at the time the warehouse receipts were issued, and that although the goods to be delivered therefrom had not been ascertained, on the above principles, Q had established an insurable interest therein. The Court of Appeal upheld the Judge, dismissing the insurers' appeal.

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