

SURVEYORS' AND VALUERS' NEGLIGENCE

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Surveyors and Valuers

- Strict liability?
- Is there a bracket principle?
- Method and date for assessing damages?
- Unfinished business from the last recession

Strict liability: Valuing the wrong property

Platform Funding v. BOS [2009]:

“I certify that the property offered as security has been inspected by me and that the above valuation is a fair indication of the current open market valuation for mortgage purposes.”

Strict liability: Valuing the wrong property

Barclays Bank v. Weeks Legg & Dean:

“If you provide facilities to my client ... for the purchase of the ... property, I undertake that any sums received ... will be applied solely for acquiring a good marketable title
....”

The bracket principle

- Is it *sufficient* to show valuation is outside the bracket?
- Is it *necessary* to show this?
 - *Merivale v. Strutt & Parker* [2000]
 - *Goldstein v. Levy Gee* [2003]
- How large is the bracket?
- Impact of bracket on quantum.
- Is the principle limited to valuers' neg?

Method and date of assessment of damages

- *Livingstone v. Rawyards Coal* (1880): The overriding principle is to put C in same position as if he had not suffered the wrong.
- *County Personnel v. Pulver* [1987]: Damages p.f. on the basis of diminution in value and as at date of breach, but court may depart from this to satisfy the overriding principle.

Method and date of assessment of damages

- *Malmesbury v. Strutt & Parker* [2009]
- *Oates v. Pitman* [2005] suggests departing from the *Pulver* guidelines:
 - Where property acquired for particular purpose;
 - Where neg not discovered for some time;
 - Where there is relevant mitigation.

Unfinished business from the last recession

- *Cheshire BS v. Dunlop Haywards* [2008]
- *Nationwide (formerly Cheshire BS) v. Cobbetts* [2009]
- New factual situations: contrib. neg.
- New law: contribution.

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