



gate and the cistern which was found underground in the back garden and which wasn't expected, and various other matters which he said he had cleared with the Defendant at some stage, or warned him that there might be extras involved. This is denied totally by the Defendant.

The first point is to decide whether there was a meeting at the house of the Defendant following the completion of all the work which was in fact completed in April, 1986, and a bill tendered on the 12th May, 1986. There were indeed a number of meetings, but the relevant one is one in which a Mrs. Giffard, who is the co-habitee of the Plaintiff, was present, and where it was said that the Defendant agreed to pay the account in full when he had sold his house. We are not concerned whether he had financial problems or whether he had difficulties with other persons. All we are concerned with is whether there was a contract, and if so what the terms of that contract were.

It is quite clear to us that there was an agreement between the Plaintiff and the Defendant and that the Plaintiff should receive payment in full when the Defendant had sold his house. It is equally clear to us that the Defendant may have meant one thing by that statement and the Plaintiff may have inferred another from it. Be that as it may, there was a subsequent meeting when the parties were alone at which the Defendant became emotional, and a cheque was tendered for £1,000, which the Defendant says was £50 over the odds, and the Plaintiff says was in part settlement and not in final settlement. The Plaintiff supported this evidence by the receipt which was given, and it is then said that on the following day the receipt was seen by the Defendant's wife, who took steps to countermand the cheque and wrote on the bottom of it, according to the Defendant, that it was in fact in full and final settlement. The Defendant says he didn't read the cheque that night, he was in too much of an emotional state, for what reason it is really not for us to hazard. He says it was because he was upset that the friendly relationship which had existed between him and the Plaintiff over a period of time had been abruptly terminated, in effect, by the Plaintiff wanting more money than he had expected to have to pay.

Now, whether we accept Mr. Fiott's argument that the agreement to pay in full meant to pay that which was due as asked for by Mr. Le Gresley or that which was found to be due later by the Defendant is really to our mind, not important. No other evidence has been adduced by the Defendant to dispute the Plaintiff's claim, and although we sat really to hear the first point, that is to say, was there an agreement to pay in full and final settlement, we were taken through the whole of the bills, to the extent that the Plaintiff gave evidence of his work, his estimates and the extras. Therefore, even if we had not supported Mr. Fiott, and we make no finding on exactly what was meant by full and final settlement, we don't think it is necessary for us to do so. We are satisfied that the work was done in the terms claimed by the Plaintiff and where there is a conflict of evidence between the Plaintiff and the Defendant we have unanimously preferred the evidence of the Plaintiff.

Accordingly, we give judgment for the Plaintiff with costs and interest at 10% from the 12th May, 1986 to date, and permission to sell.

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