

## update

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## “Off the plan” sales – a matter of timing?

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In the matter of *Clifford v Solid Investments Australia Pty Ltd*, the contracts had provision for the vendor developer to extend the period for completion of the development and registration of the plan of subdivision if matters beyond the vendor developer’s control, such as delays in obtaining consent, strikes, earthquakes, inclement weather and so on delayed completion. This is not an unusual provision in off the plan contracts.

The developer purported to extend the completion date on three occasions. The purchasers sought to avoid the contracts on the basis the original completion date had passed. Further, the purchasers claimed that the vendor developer could not extend the completion date based on the “delays” special condition as that would give rise to an uncertain period for completion. The purchaser argued that the Sale of Land Act required a specified period which could not then be altered as sought by the vendor.

The Supreme Court agreed and ordered that the contracts were at an end and the deposits be refunded in full to the purchasers.

If you are involved in “off the plan” sales or purchases, please contact us to discuss relevant contract conditions.

## For more information

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