

Before His Honour Judge Mackay. TCC Liverpool, 2nd November 2001.

West Morland Car Sales engaged Birchall to erect steel works for a workshop in Kendall. The contract was oral, but subsequently evidence in writing.

Birchall successfully submitted a payment dispute to adjudication and was awarded £45,087.85. West Morland did not pay. Birchall brought an enforcement action.

Morland resisted enforcement on the grounds that :-

- 1) HGCRA did not apply.
- 2) Breach of the rules of natural justice.

ORAL CONTRACT

Birchall asserted that the HGCRA did not apply because this was an oral contract. The court held that pursuant to s107(2) HGCRA 1996, there was no requirement that a contract be "wholly evidenced in writing" merely that it had to be sufficiently evidence in writing. This was a matter of degree in every case. In the circumstances of the instant case it was sufficiently evidenced.

NATURAL JUSTICE

Morland asserted that the enforcement process denied them the opportunity for their defence to receive proper consideration and amounted to a breach of their Human Rights Act (Article 6 – right to a fair trial). With reference to his own judgement in **RJT Consulting v DM Engineering** HHJ Mackay held that the Human Rights Act has no application to the adjudication procedure.

Accordingly he ordered enforcement.