

Can an emergency arbitrator help you finalise your transaction?

Piotr Bytnerowicz, FCI Arb

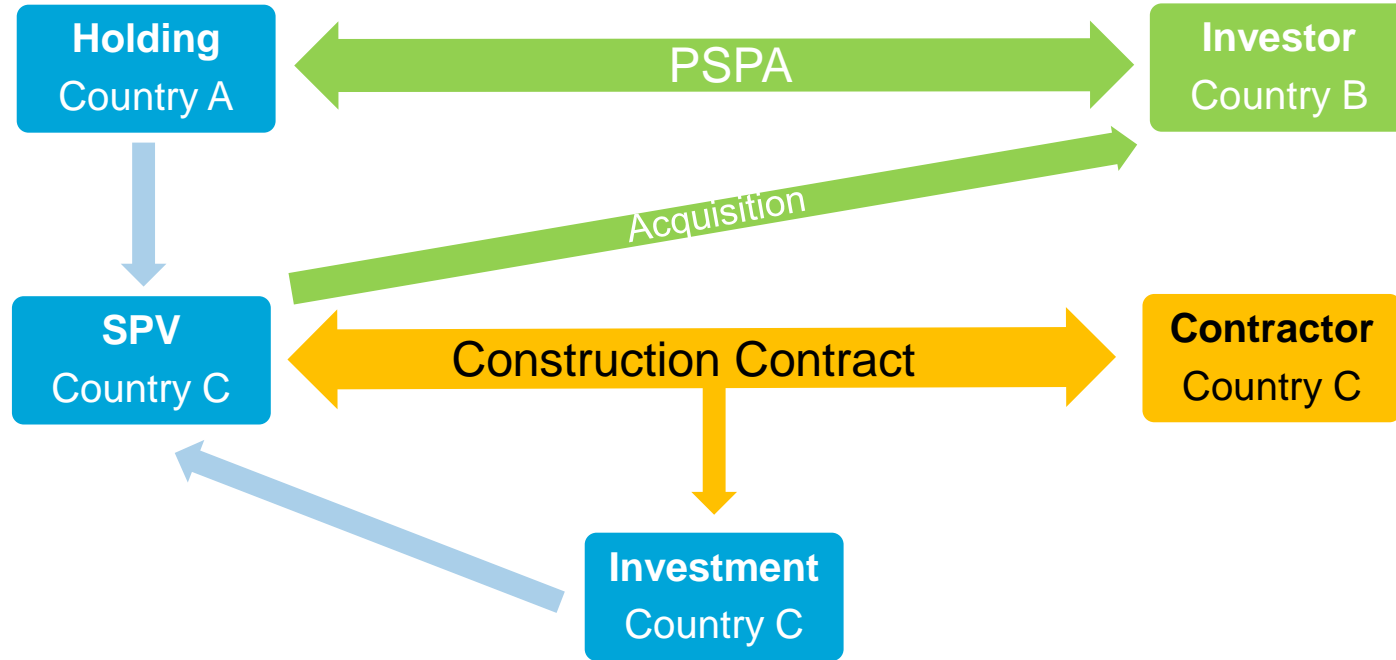
26 May 2022

In case of an emergency...

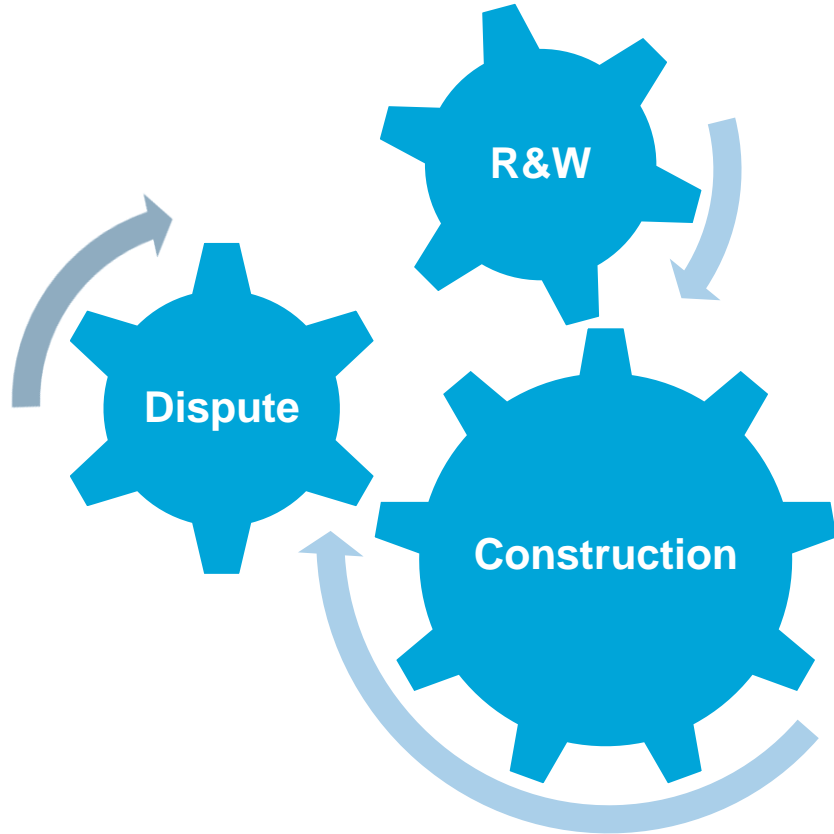


► Background

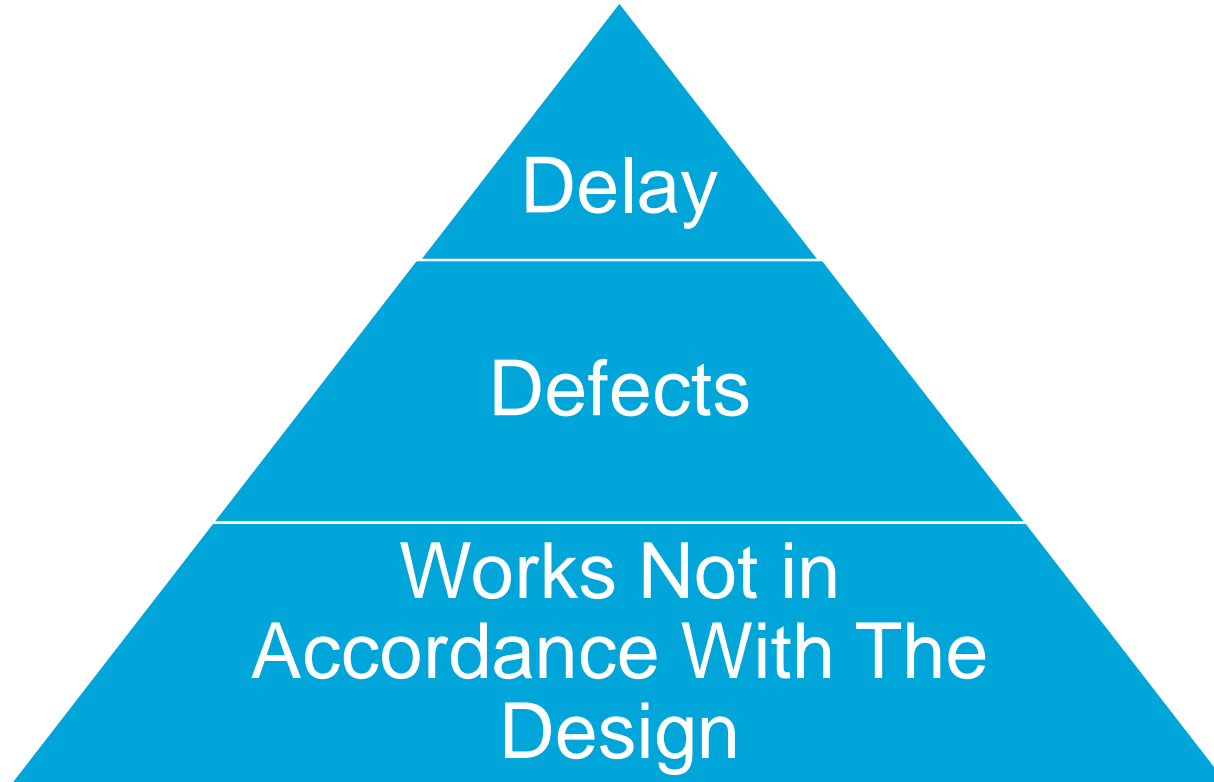
Construction & Acquisition



www.what.went.wrong?



▶ www.what.went.wrong/construction



1.6.5. The excerpts from land and mortgage register books maintained for the Land truly and accurately describe the legal status of the Property. To the Seller's Best Knowledge there are **no appeals or pending applications** regarding entries made to those land and mortgage registry books, which have not been evidenced in the said excerpt, and there are no justified grounds for any Person to file such application,

6.3.

On the Closing Date, the Seller shall deliver to the Purchaser:

- 6.3.1. the legal documentation concerning the Property, including the original of the Lease, handover protocols related thereto and the Collateral Documents as well as originals of General Construction Contract, other documents under which the Company was granted **Construction Warranties** as well as originals of Construction Warranties Collateral Documents; and

12.2. The Seller undertakes to cause that the Company will **ensure that the General Contractor** removes the Identified Defects not later than by the Long Stop Date.

Can the Contractor Cause Problems?

3	1.A. Note number	1.B. Note description
	2. Date of entry	
	3. Date of deletion	
	4. Details of deletion	
	DZ. KW. /	PROHIBITION TO
	ENTRY OF	DISPOSE OF OR
	202	THE REAL ESTATE
		ENCUMBER

Warning in the land and mortgage register

Contractor rescinded the contract

Quality guarantee

Removal of defects

► Emergency Arbitration

Relief Sought

Ordering the respondent to withdraw its application from the land and mortgage register

Ordering the parties to comply with the construction contract

Ordering the respondent to comply with its obligations under the quality guarantee

Interim Measures

- c) obliges the Respondent to:
- i) **withdraw** its application filed on [REDACTED] with the District Court in [REDACTED] keeping land and mortgage register no. [REDACTED] no later than on [REDACTED] and
 - ii) not to repeat this or a similar application in relation to land and mortgage register no. [REDACTED] until the dispute is resolved by the Arbitral Tribunal;
- d) orders the Respondent to **pay** the amount of [REDACTED] ([REDACTED] [REDACTED] to the Claimant for each day of delay in withdrawing its application filed on [REDACTED] with the District Court in [REDACTED] keeping land and mortgage register no. [REDACTED], as ordered above;
- e) determines that until the dispute is resolved by the Arbitral Tribunal, the Parties should **comply** with the provisions of the Contract as if the Respondent had not made the declaration to rescind it

d) determines that, until the dispute is resolved by the Arbitral Tribunal, the Respondent should **comply** with its obligations under the quality guarantee and statutory warranty for defects granted by the Respondent under the Contract;

► Take Aways



If you want
to avoid
disputes...



Avoid
construction
projects and M&A
transactions!



If you get
into
trouble



Call an
emergency
arbitrator!

Questions?



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