UKSC Confirms Recoverability of Voluntary Remediation Costs and Contribution Rights in Building Defect Claims—*URS Corporation Ltd v BDW Trading Ltd* [2025] UKSC 21

6 June 2025

On 21 May 2025, the Supreme Court handed down its judgment in *URS Corporation Ltd (Appellant) v BDW Trading Ltd (Respondent)* [2025] UKSC 21. Arising from post-Grenfell litigation concerning building remediation, the appeal confirmed the recoverability of costs incurred by developers to remedy safety defects in the absence of third-party litigation. On the facts, the Supreme Court concluded that such voluntarily incurred costs were not too remote and confirmed that contribution claims may proceed without the need for prior proceedings or judgments involving third parties.

BACKGROUND

On 14 June 2017, a fire spread through Grenfell Tower, a high-rise residential building in North London, which tragically resulted in 72 deaths and exposed widespread failures in building safety regulation and enforcement in the United Kingdom ("UK"). Following the Grenfell Tower fire, the UK government encouraged developers to investigate and remedy safety defects in medium- and high-rise buildings. This duty was later formalised under the Building Safety Act 2022 (the "BSA"), which imposed statutory responsibilities on both developers and contractors.[1] BDW Trading Ltd ("BDW"), the Respondent, is a property developer who had engaged URS Corporation Ltd ("URS"), the Appellant, to provide structural design services in connection with multiple high-rise residential developments. During post-Grenfell inspections in 2019, BDW discovered design defects in two sets of its high-rise residential building developments (known as Capital East and Freemens Meadow, together the "Developments"). The Developments had been constructed based on structural designs provided by URS.[2]

Despite having already sold the properties when the structural defects were discovered, BDW performed remedial works on the Developments. Although no third-party owner or occupier had brought or indicated any claim against BDW in relation to the defects, BDW voluntarily undertook the works, citing risks to occupant safety, reputational

1 URS Corporation Ltd v BDW Trading Ltd [2025] UKSC 21, [3].

2 *Ibid*, [5].

harm and potential liability. In March 2020, BDW brought a claim in negligence against URS, with the cost of the remedial works (and associated costs) forming the basis of its loss.

In October 2021, following a preliminary issues trial, the High Court held that BDW's losses (excluding those related to reputational harm) were within the scope of URS's duty of care, not too remote, and recoverable in principle.[3] After the BSA came into force in June 2022, extending the limitation period for claims under the Defective Premises Act 1972 (the "DPA") from six to 30 years, BDW amended its claim to include causes of action under both the DPA and the Civil Liability (Contribution) Act 1978 (the "Contribution Act").[4] The case progressed to the Court of Appeal before reaching the Supreme Court for final determination.

THE COURT'S JUDGMENT

The Supreme Court unanimously dismissed URS's appeal on all four grounds. The leading judgment on Grounds 1 to 3 was delivered jointly by Lord Hamblen and Lord Burrows, with Lord Leggatt providing a separate opinion on Ground 4.

Voluntariness, Scope of Duty and Remoteness[5]

URS argued that BDW's remedial costs were not recoverable because they fell outside the scope of URS's duty of care and/or were too remote because they were voluntarily incurred after BDW had divested its ownership in the Developments. The Supreme Court rejected any general "*principle of voluntariness*" as a bar to recovery. It held that voluntarily incurred losses do not automatically fall outside the scope of a professional's duty solely on that basis.[6]

While voluntariness may be relevant to issues of legal causation or mitigation, the Court emphasised that this is a fact-specific inquiry that must be assessed at trial.[7] It further questioned whether BDW was acting in a genuinely voluntary capacity given the risk of injury or death to residents, the potential for future liability, and reputational concerns. The Court concluded that there is "*a strong case for contending that BDW was…not exercising a sufficiently full and free choice so as to be regarded as acting voluntarily in effecting the repairs*", having "*no realistic alternative*".[8] Accordingly, the Court affirmed

---

3 *Ibid*, [18]-[26].
4 *Ibid*, [14].
5 Ground 1.
6 *Ibid*, [54]-[55].
7 *Ibid*, [54]-[61].
8 *Ibid*, [66].

that the losses were within URS's assumed scope of duty, not too remote, and recoverable in principle.[9]

Contribution Without Prior Judgment or Claim[10]

BDW claimed contribution from URS on the basis that both it and URS are liable to homeowners in respect of the damage remedied. BDW considered that the right to contribution arose when the damage was suffered by homeowners, namely at the time the Developments were completed. In response, URS argued that the right to claim contribution does not arise unless and until there is a third-party claim resulting in a judgment against BDW, or in the event that BDW admits to liability or agrees to settle.[11]

Lord Leggatt rejected both contentions. He concluded that the right to claim contribution under the Contribution Act arises once (i) damage has been suffered for which both parties are liable, and (ii) one party has paid, has been ordered to pay or has agreed to pay compensation for that damage.[12]

On the facts, the Court found that BDW had discharged its liability to homeowners by carrying out the remedial works. Such remedial works constituted compensation in kind. The absence of formal proceedings did not preclude BDW from seeking contribution from URS. What matters, the Court stressed, is the existence of a common liability and a compensatory act (here, the payment in kind) rather than a specific legal mechanism through which the damage is addressed. Accordingly, parties can seek contribution even in proactive remediation contexts before formal claims are initiated.[13]

Other Grounds

The Supreme Court also addressed the retrospective effect of section 135 BSA[14] and URS's duties under the DPA.[15] On the retroactivity point, the Court confirmed that section 135 of the BSA, intended to ensure accountability for historic building safety defects, applies to claims brought under section 1 of the DPA. While BDW could rely on the extended 30-year limitation period, the Court stressed that the reasonableness of the remedial works remains a factual question to be resolved at trial.[16] Turning to the duties under the DPA, the Court rejected URS's argument that a party cannot simultaneously owe and be owed a duty under the DPA; it confirmed that a developer may both owe and be owed duties under the DPA, particularly where it is also the original owner of the

---

9 *Ibid*, [62]-[67].

10 Ground 4.

11 *Ibid*, [211].

12 *Ibid*, [212].

13 *Ibid*, [266].

14 Ground 2.

15 Ground 3.

16 *Ibid*, [125].

property.[17] In this case, URS owed a duty to BDW as the structural design work was carried out "*to the order*" of BDW, satisfying the requirements under section 1(1)(a) of the DPA.[18]

COMMENT

The Supreme Court's confirmation that voluntarily incurred remediation costs may be both recoverable and subject to contribution claims, even in the absence of formal third-party claims, will be of considerable interest to construction and real estate stakeholders beyond the UK.

The Court's rejection of a strict "*principle of voluntariness*" confirms that there is no legal rule that would preclude recovery of losses simply because they were incurred without legal obligation. Instead, this affirms that the recoverability of voluntarily incurred economic losses (based on an assessment of remoteness, causation, and mitigation) must be determined on a case-by-case basis.

The Court's ruling also confirms that a claim for contribution does not depend on the existence of a prior judgment, settlement or formal claim. Parties proactively undertaking remedial works can seek proportionate contribution from other liable parties even before such formal claims are made against them.

In a post-Grenfell era, this judgment provides reassurance to developers and construction professionals that good-faith remediation efforts will not be penalised, regardless of current ownership or the existence of formal claims. It reflects a judicial willingness to adopt a pragmatic approach that prioritises safety and accountability even where limitation or technical defences might be raised. More broadly, this ruling offers valuable guidance for jurisdictions with similar liability regimes and for international stakeholders operating in or contracting under English law. As other countries consider similar reforms, this decision offers guidance for how courts may balance voluntary remediation efforts with equitable liability-sharing in complex construction disputes.

* * *

Please do not hesitate to contact us with any questions.

---

17 *Ibid*, [157]-[159].

18 *Ibid*, [135]-[159].

Tony Dymond
Partner, London
+44 20 7786 9030
tdymond@debevoise.com

Gavin Chesney
Counsel, London
+44 20 7786 5494
gchesney@debevoise.com

Marilena Chrysanthakopoulou
International Disputes Support Lawyer, London
+44 20 7786 5535
mchrysanthakopoulou@debevoise.com

Christina Newall
Trainee Associate, London
+44 20 7786 5406
cnewall@debevoise.com