

CHAPTER

6

BALANCING BETWEEN CONTRACTUAL AND LEGAL RIGHTS: A PRACTICAL PERSPECTIVE

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6.1 PROLOGUE

Cash flow significantly impacts the successful completion of construction projects, making it a critical factor in the construction industry (Harris, et al., 2021; Akinsiku et al., 2016; Kalogeraki et al., 2024). This study aims to enlighten students on understanding both contractual and legal rights when faced with delayed or withheld payments for work. Within the intricate network of relationships involving employers, main contractors, subcontractors, and labourers, the flow of cash affects all parties (Koopman & Cumberlege, 2021). Subcontractors, in particular, heavily depend on timely payments from main contractors. However, conflicts may arise due to discrepancies in work quality or delivery issues (Gasemagha et al., 2021).

Zharul, a skilled electrician with a well-established reputation, was excited to secure a contract with ABC Construction (ABC), a prominent builder in the city. The project involved electrical wiring for a large commercial building. Zharul, confident in his expertise, completed the

work on time and to a high standard. In the present situation, both ABC Construction and Zharul find themselves at an impasse. ABC Construction raises concerns about the quality of Zharul's work, while Zharul's primary issue is receiving payment for completed work. Zharul contends that he is entitled to payment despite the quality concerns, whereas ABC Construction insists on payment only after rectification is made. This dilemma underscores the complexity of construction disputes where two parties, each with legitimate claims, face conflicting priorities. Despite such challenges, subcontractors still require compensation for work completed, necessitating effective loss mitigation strategies (Martin et al., 2011). Zharul must navigate the most suitable legal, contractual, and practical approaches in a scenario where both parties have sound claims against one another.

This case study conducts a thorough analysis of legal and contractual considerations, complemented by industry best practices. It aims to provide a comprehensive understanding of the potential avenues and rights available to subcontractors facing payment issues in the construction industry. The focus lies on exploring legal, contractual, and practical approaches that one can adopt in similar situations, promoting fair treatment and efficient cash flow management in construction projects. The study seeks to contribute valuable insights to enhance subcontractor empowerment and overall project success.

6.2 ZHARUL AND THE TEAM

Zharul and his team had been in the electrical wiring installation business for over a decade, and they were widely recognised as one of the best specialised electrical contractors in the industry. Over the years, they had worked on countless projects, from small mom-and-pop shops to sprawling shopping malls. Their handiwork could be seen in the intricate lighting systems of upscale restaurants and the heavy-duty power grids of factories. Despite their success, they never rested on their laurels. They were constantly on the lookout for new technologies and

techniques, attending industry conferences and workshops to stay ahead of the curve. This dedication to continuous learning ensured they could offer their clients the best possible service, utilising the latest advancements in safety, efficiency, and sustainability.

One of the secrets to Zharul's success was his ability to build strong relationships with his clients. He understood that in the world of construction, where deadlines were tight and budgets were often strained, trust was paramount. This in-depth understanding allowed Zharul to offer not just solutions but creative suggestions that optimised the electrical systems for the specific needs of the space. He fostered open communication throughout the project, keeping clients informed of progress and addressing any concerns promptly. This commitment to transparency-built trust and fostered long-term relationships with clients, many of whom became repeat customers.

As the years went by, Zharul and his team continued to push their boundaries. They took on increasingly complex projects, working on everything from massive data centres that hummed with the lifeblood of the digital age to sprawling commercial buildings with intricate lighting and security systems. They even tackled several historic restoration projects, carefully integrating modern electrical systems into the delicate fabric of these architectural gems. No challenge was too daunting for Zharul's team. They thrived on the opportunity to showcase their expertise and problem-solving skills. Their meticulous planning, flawless execution, and unwavering dedication to safety ensured they consistently delivered exceptional results, exceeding client expectations and solidifying their reputation for excellence.

Despite their ever-growing portfolio and increasingly busy schedule, Zharul and his team never lost sight of what was truly important. They remained committed to their core values of honesty, integrity, and hard work. They believed in treating every project, big or small, with the same level of dedication. They fostered a positive and collaborative work environment, where each team member felt valued and empowered to contribute their skills and ideas. They knew that their success was built on the trust of their clients, and they worked tirelessly to maintain that