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The Lila Lisbon – UK Supreme Court Confirms Saleform 2012 Buyers Can Recover Loss of Bargain Damages

By Jack Spence | July 29, 2026

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In *Great Asia Maritime Ltd v Orion Shipping and Trading LLC (The Lila Lisbon)* [2026] UKSC 23, the UK Supreme Court has unanimously upheld the Court of Appeal's decision, reaffirming the industry's understanding that Clause 14 of the Norwegian Saleform 2012 ("**NSF**") allows the "Buyers to recover loss of bargain damages if Sellers' negligence means a notice of readiness is not provided or the vessel is not tendered for delivery on time.

Sellers had contracted to sell the M/V Lila Lisbon (the "Vessel"), a bulk carrier, to Buyers on NSF terms.[1] An arbitral tribunal held that Sellers failed to give notice of readiness to deliver the Vessel to Buyers by the required date and that this was due to Sellers' proven negligence. Sellers failed to make arrangements for the timeous disembarkation of crew and undertook a further voyage charter which meant delivery could not be made.

The Supreme Court's Interpretation of Clause 14

Clause 14 of the NSF provides (emphasis added):

> "*Should the Sellers fail to give Notice of Readiness in accordance with Clause 5(b)… the Buyers shall have the option of cancelling this Agreement….*
>
> *Should the Sellers fail to give Notice of Readiness by the Cancelling Date… they shall make due compensation to the Buyers for their loss and for all expenses… if their failure is due to proven negligence and whether or not the Buyers cancel this Agreement*."

It was common ground that, on this basis, Buyers were entitled to terminate the contract. The only question was whether "*due compensation*" covered loss of bargain damages (i.e. the difference between the contract price and the market price at the time of termination).

The Supreme Court unanimously determined that "*due compensation*" did cover such damages. The question was principally one of contractual interpretation. What did the words "*due compensation*" mean? The Supreme Court held:

- On their ordinary meaning, the words meant "*appropriate compensation using the common law principles of causation, remoteness and mitigation*" ([24(1)]).
- There was no principled reason to cut down this normal reading ([24(7)]) and it was unclear what loss would be covered if that meaning were not adopted ([24(9)]).
- Clause 13, covering Buyers' Default, had been previously held to cover loss of bargain damages. It would be anomalous if a different result were necessitated in relation to Sellers' Default in Clause 14 ([28]).
- The ordinary meaning reflected the default position under the Sale of Goods Act 1979 for damages for non-delivery ([29]).

- Since the 1981 decision in *The Solholt*[2], it has been recognised that loss of bargain damages are recoverable where "*due compensation*" wording was used in the 1966 version of the NSF. The industry has operated on this basis for a long time. The Court would be reluctant to disturb long standing authorities on a standard form unless 'a good reason' were shown ([46]).
- Commercial reasonableness supports the ordinary meaning. It would not be reasonable to say that Sellers should enjoy the benefit of their negligence by being able to sell the Vessel at the (now) higher price while the Buyers lost out ([51]).

The Supreme Court rejected the Sellers' reliance on the Court of Appeal's decision in *Financings Ltd v Baldock* [1963] 2 QB 104 (said to mean that, where a party terminates under a contractual clause – not for repudiatory breach – common law damages are not available). While it was far from clear that this analysis was correct ([64 - 66]) and the Court left this open for future consideration, it could not apply in the present case where there was an express contractual entitlement to damages ([70]).

Finally, Sellers sought to rely on an alleged "*clear words*" principle, that clear words were required to *grant* contractual rights. This was said to be the logical corollary to the well-recognised position that clear words are required to *exclude* contractual rights. The Supreme Court gave this short shrift – removing rights which would otherwise subsist is entirely different to granting additional rights ([82]).

Conclusion

The significance of this Supreme Court's decision may be somewhat reduced by the fact that the Norwegian Saleform 2025 expressly provides that loss of bargain damages *are* recoverable for Sellers' Default (see previous alert). Nevertheless, it is likely that contracts on the 2012 NSF will continue for some time due to familiarity. For that reason, the Supreme Court's endorsement of the orthodox status quo is to be welcomed.

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[1] The standard form was modified slightly, but not in any way pertinent to Clause 14, discussed below.

[2] [1981] 2 Lloyd's Rep 574