

PART TWO

The federal government launched a massive infrastructure restoration and development project aimed in significant part at rescuing a precariously situated economy by creating jobs and stimulating commerce. One part of the project involved building 100 new wind and solar energy production facilities; the government created the Alternative Energy Agency (“AEA”) to get these facilities built and on-line.

AEA soon identified the perfect site for one of the facilities to be built in northern California. The land was owned by Owner. After extensive negotiations between the parties, only a few issues remained unresolved, so AEA scheduled a public hearing to solicit input regarding the proposed land purchase. At the televised hearing, Owner described the deal she was prepared to make with the AEA, dismissing the unresolved issues as minor. She said she would not entertain offers from any third party interested in buying the land, but instead would work with AEA until all issues were resolved – provided that the AEA was also committed to the deal. All of this was recorded in the official minutes of the hearing, as was the AEA representative’s reply that “you have the Agency’s word.”

AEA then ordered 30 special windmills to be custom built by Wind Energy Corporation (“Wind”). After many meetings, Wind and AEA agreed to a price and a detailed description of the windmills, which was set forth in 50 pages of text, diagrams and engineering specifications. AEA attached this document to an AEA purchase order, on which the price was noted, and sent it to Wind with the agreed upon cash deposit of 20% of the purchase price. Wind confirmed receipt by sending its standard acknowledgment form. AEA’s purchase order stated explicitly that “seller shall bear responsibility for loss or damage during transit.” Wind’s acknowledgment form stated explicitly that “buyer shall bear responsibility for loss or damage during transit.” Neither party objected to the other party’s form.

AEA’s acquisition of title to the land was delayed by certain California State regulatory procedures. However, because it seemed that closing the deal was “just a matter of time,” AEA engaged General Contractor (“General”) to do some grading and other preliminary work on the land. Owner did not object to this work. In fact, she was quite pleased because it made construction of the AEA facility appear imminent. This, in turn, significantly enhanced the value of contiguous parcels, two of which were also owned by Owner. Perhaps because of the work being done by General, Developer noticed the land in question and decided it was the perfect place for a shopping mall. Developer offered Owner more money, in cash, immediately. Owner sold the land to Developer. Upon learning of the sale, General stopped work and demanded payment from AEA, but no such payment was forthcoming.

Meanwhile, the windmills were completed and in transit when the convoy of trucks carrying them was hijacked. The windmills were then shipped to a country from which they cannot be recovered, and the hijackers have vanished.

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The following events ensued:

1. AEA sued Owner.
2. General sued AEA.
3. Wind sued AEA and AEA counterclaimed.

Identify and analyze the relevant legal issues in each law suit. What arguments will be made by each party and with what likely result? Based on the above facts, is any other law suit among these parties likely? If so, describe it/them and likely outcome(s) briefly.

Note: This examination is intended to test only material covered in our fall semester Contracts course, principally: contract formation, defenses to enforcement, and basic remedial principles. Do not waste time discussing matters we have not addressed, including contract interpretation, performance, and breach. Also, ignore any special issues related to AEA's likely status as a governmental entity.

End of examination. Congratulations!