

NEGOTIATION COMPETITION 23.02.17

Lillevik Hill

In 2005, the major local land owner in Lillevik, Hans Tastad, signed an agreement with the property developer Ås Eiendom AS, giving Ås Eiendom AS the right to acquire a coastal plot (Lillevik Hill) totaling 330.000 square meters for a price of NOK 15.000.000. In the event of acquisition, the payments were set in annual installments of NOK 2.500.000 over a six-year period. The plot was located a 25 minutes' drive away from downtown Romso, a fast growing arctic city of roughly 80.000 inhabitants with strong demand for new property developments. The contract also gave Ås Eiendom AS the right to submit a zoning plan for the entire area for local government approval prior to a decision of purchase. In 2007, the City Council approved the zoning plan, allowing the construction of 1200 residential units on the plot. However, due to a sudden drop in demand stemming from the financial crisis of 2008, Ås Eiendom AS did not proceed with any further action.

A large property developer Provier AS acquired Ås Eiendom AS in 2015 through a merger. Provier AS considered the contract with Hans Tastad to be one of the most valuable assets in Ås Eiendom AS, the plot now having an estimated market value of around NOK 30.000.000 – 40.000.000 due to booming real estate prices and the benefit of an approved zoning plan. May 2015, in a written letter to Hans Tastad, Provier AS invoked their assumed right to purchase Lillevik Hill at the set price of NOK 15.000.000 pursuant to the Ås Eiendom AS agreement. Through his legal advisors, Hans Tastad responded claiming the right to purchase had expired and that, for a number of other reasons of contract law, both the contract and the attempted notification was invalid.

Litigated through the first and second instance of the Norwegian legal system, the case raised several complex issues of law. While both sides' legal advisors strongly argued their case in court, it was apparent that the final outcome was very unpredictable and that a final decision in favor of either party was more or less equally likely. Hans Tastad won in the first instance, while Provier AS prevailed by a split decision in the Court of Appeals. The court ruled Hans Tastad to compensate Provier for their litigation costs in both instances, totaling NOK 1.200.000. In addition, Hans Tastad had to carry his own costs of litigation amounting to NOK 600.000.

Supreme Court proceedings are tomorrow. The parties agreed to meet today in an attempt to reach a settlement of the dispute.