

Business of Law

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Answer to Question No. 1

ISSUES

- Whether a valid and enforceable contract had resulted between Compu Help and Office Supply?
- Whether Office Supply has a chance to succeed in the lawsuit against Compu Help for breach of contract?

RULES

In order to resolve the issues rose in the given question we must consider the following legal principles and precedents;

- A valid agreement must have been entered into between the parties
- There must be consideration
- Intention of the parties to legally enforce the agreement
- Capacity of the parties to contract
- Consent of the parties must have been free while entering into the contract (Berryman & Bigwood, 2010)

In order to form a valid agreement, one party must make an offer. The offer may be either oral or written. The offer must be clear and precise. By way of an offer, an offeror promises to an offeree that he would do something for the offeree in consideration of the offeree doing something for the offeror. An acceptance must correspond to the offer and the same must be accepted unequivocally. If the offeree puts conditions while accepting an offer, the original offer dies and a counter offer arises. Moreover, communication of acceptance plays a significant role in giving rise to a valid agreement (Carter *et al.* 2007).

Such an agreement can result into a valid contract if the same is backed by consideration. Consideration is essential for giving rise to a valid contract. There cannot be any contract without consideration. Law provides that consideration need not be sufficient as per the current market rates but it must be of some value in the eyes of law (Cheshire *et al.* 1966).

It must have been the intention of the concerned parties that they would give legal effect to the said contract. The courts consider the conduct of the parties in determining whether the parties intended to be bound by the terms of the contract. For instance, if a husband makes a promise to his wife that he would give her a brand new car if she cooks for him, then it cannot be said that the parties have intended to be bound legally by the terms of the said agreement (Cheshire *et al.* 1992).

The parties must fulfill the capacity requirements for entering into a contract.

The parties must have entered into the contract with free consent without being induced by fraud, misrepresentation, undue influence, mistake, or coercion.

Standard form contracts are such contracts, which are drafted by one party and signed by the other. These type of contracts do not provide to the other party any room for negotiating the terms, they are either to be accepted as it is or rejected (Gooley *et al.* 2007).

The Australian case of Latec Finance v. Knight 1969 NSW may be cited in this connection. In the instant case, A finance company sent a form to the purchaser which the said purchaser was required to fill up and return to the company, in the form of an offer. The finance company reserved the right to accept the same once it reached their office by way of putting signatures. The court, in the instant case observed that after signing of the contract on behalf of the company a valid contract would come into existence between the parties. But it is essential that such acceptance must be communicated to the offeror (Graw, 2008).

APPLICATION

Now we would apply the above stated legal principles to the facts of the case.

- The standard form contract sent to Office Supply by Compu Help did not contain any amount of consideration. A valid contract cannot come into existence without any amount of consideration.
- Moreover, Compu Help did not sign the form, hence there was no acceptance.
- Within reasonable time frame Compu Help informed office Supplies that there was a mistake in the contract and sent him the amended form.

The major requirements of forming a valid contract is lacking in the instant case. These being; lack of acceptance, no consideration.

CONCLUSION

From the above discussion we may conclude that a valid and enforceable contract was not entered into between Compu Help and Office Supply.

Answer to Question No. 2

ISSUE

Whether Compu Help is entitled to any defenses in the suit instituted against it by Office Supply regarding breach of contract?

RULES

In order to succeed in the suit against Compu Help for breach of contract, Office Supplies will have to prima facie establish that a valid contract has come into existence between them and Compu Help. In the absence of a valid contract, breach of contract is not possible (Hogan-Doran, 2002).

In order to form a valid contract the following elements are essential;

- A valid agreement must have been entered into between the parties
- There must be consideration
- Intention of the parties to legally enforce the agreement
- Capacity of the parties to contract
- Consent of the parties must have been free while entering into the contract (Turner & Trone, 2013).

APPLICATION

Now we would apply the above stated legal principles to the facts of the case.

- Compu Help did not accept the contract, which Office Supply is intending to enforce against it. Neither did Compu Help sign the contract nor did it communicate its acceptance to Office Supplies. From the case of Latec Finance v. Knight 1969 NSW we have gathered that even in case of standard form contracts communication of acceptance is essential.
- Moreover, there was no consideration in the said contract. No valid contract can come into existence without consideration.

Thus, a valid contract was not entered into between Compu Help and Office Supplies. In the absence of a valid contract, an action for breach of contract cannot survive.

CONCLUSION

The above discussion may be concluded by stating that Compu Help is entitled to the defense of non-existence of a valid contract as a defense in the proceeding for breach of contract instituted by Office Supplies.

Answer to Question No. 3

ISSUE

In case, Office Supplies proves that Compu Help has committed breach of contract, what remedies are available to Compu Help?

RULES

In case of breach of contract, two options are available to the concerned innocent party. The innocent party is either entitled to affirm the contract or to terminate the same. If the innocent party intends to terminate the contract, he/ she may either

- Bring an action against the defaulting party for breach of contract or
- In case, an action is brought by the other party, the innocent party might take the defense of breach of contract (Kraft, 1977).

Law entitles an innocent party to the right to claim the following in case of breach of contract;

- Damages

Damages are awarded in case of breach of contract as a alternative for performance. Damages are awarded in order to put the innocent party in the same position he would have been in case, the said breach would not have taken place. In fact, court awards damages in order to redress mental distress. In this connection the case of *Baltic Shipping v. Dillon* High Court of Australia 1993 176 CLR 344 may be cited (McKendrick & Cohen, 2005).

- Equitable Remedies

Certain equitable remedies are also available to the innocent party in case of breach of contract. These include the following;

- Specific Performance of Contract

Courts award the remedy of specific performance of contract as a remedy in case of breach of contract when damages do not seem to be adequate for the loss suffered (Rowan, 2012).

- Injunction

The court may require the defaulting party to restrain from doing something with respect to the contract by way of issuing injunction.

- Equitable Damages are also awarded by courts, in many cases, depending upon circumstances (Treitel & Rose, 1996).

APPLICATION

Now we would apply the above stated legal principles to the facts of the case.

In case, Office Supplies succeeds to establish that Compu Help has committed breach of contract then he would be entitled to the remedy of damages. The quantum of the damages would depend upon the amount spent by him in anticipation of performance of the contract. In this case, Office Supplies had invested money in order to buy computers for the business, anticipating that he would save money as a consequence of the said contract.

CONCLUSION

We may conclude the above discussion by stating that in case Office Supplies proves that Compu Help has committed breach of contract, it would be entitled to the remedy of damages to

the extent of sum invested by him in anticipation of performance of the contract. The damages would be awarded in order to place Office Supplies in such a position as it would have been had the said breach never taken place.

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