

The legal position



The legal position is that Ursula entered into a contract to purchase the book. The contract was executed when Ursula gave out her money to the shop attendant and took the book with a good title. The terms of the purchase are based on what is referred to as express warranty.

An express warranty is created when one party promises the other that specific facts of a given case are true. Therefore, the other party relies on the facts to make a decision and if he/she later finds them to be untrue he/she will have to seek remedy. In this case, the statement that the book by Ann Roberts is newer is a true statement since the bookseller was just a distributor of books and not the publisher. Therefore, Ursula will not have a legal remedy against the bookseller. An express warranty was not created since this was just a proposition in business terms to woo customers to make a purchase. The statement that the book is newer was sort of an exaggeration which in legal terms will have no effect. Although she relied on the promise that the book was newer, she cannot have a legal remedy against the book store since the book is written as being published later than the other. The only thing she can do is to buy the other book at the full cost. This is a law that is meant to protect sellers of goods and services against those customers who would return products once they have been sold to them. Furthermore, Ursula being a university student was expected to exercise a lot while making the purchase of the book. A person of her university status is expected to know when a book was edited. Therefore, she does not have a legal claim against the bookstore.

The University of Isambard owed Ursula a duty of care. This is what is referred to as the occupier's liability. It means that the owner of a building

owes a duty of care to individuals visiting, trespassing or using the premises. It is the responsibility of the owner to make the premise as safe as possible for all the occupiers. It is a tort law that deals with damage, accidents or personal injury arising from dangerous and defective conditions of the buildings. A visitor is treated as a person who has been given permission to enter or make use of a building or a premise.

In the case of Ursula, the university owed her a duty of care. The case in hand, Vincenzo, the lecturer of business law who is an employee of the university turned off the lights as he was shutting down the audio, visual equipment. As a result, Ursula lost her balance and fell down on the stairs breaking her arms in two places. The legal position on this case is that the university should pay Ursula for damages and for negligence caused by the lecturer. This is because, the university has a duty of care and the lecturer should have taken necessary measures of not being negligent. The university had an occupier liability since she sustained injuries while using the university premise.

It was reasonable for the university lecturer to expect students and in this case Ursula can sue the university for not providing lighting, especially during the night. In arriving at the decision on the extent of the damage and the legal claim made by Ursula, the court can follow the precedent set in the case between *Phipps v Rochester Corporation* (1955) 1 Q B 450. In this case, it is expected that some of the circumstances were taken into account when measuring the occupiers' obligation is the degree of care for the students safety which the occupier may assume will be exercised by the lecturers.

In this precedent case, the plaintiff a boy aged five was out blackberrying with his sister aged seven and they walked across a large open space, which formed part of a housing estate being developed by the defendants. The defendants had dug a long, deep trench in the middle of the open space, which was quite obvious to an adult. The plaintiff fell in and broke his leg.

In this case, it was held that a prudent parent would have allowed children to go to the open space after at least he checked himself that the place posed no dangers for the children. The defendants were thus liable. The occupier i. e. the university would have discharged his duty if the place is reasonably safe for students who are accompanied by lecturers whom the occupier is in all the circumstances entitled to expect him to have proper care of the student. This is because these are cases involving unprecedented, unexpected and freak hazard at common law.