

Case portfolio on business law cases: roe vs wade

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Roe

Vs

Wade

Jane Roe a resident of Dallas in Texas fell pregnant and decided to have an abortion. The Texas laws however had outlawed abortions except in cases where the life of the mother was in danger. Roe however sued the district attorney of Dallas county Henry Wade in order to be allowed to proceed with the operation.

Roe's wanted to terminate her pregnancy because she was too poor to raise the child and did not have money to cross over to countries where abortion was legal. The issue of determination before the court was how constitutional the Texas laws were in as far as prohibiting and outlawing abortion was concerned. The court ruled the case in favor of Roe arguing that the statute violated a woman's right to privacy and the rights were interpreted broadly even to cover a woman's choice to undergo abortion. (Wardle, 1980) The court in reaching this decision put into consideration the provisions of the constitution, which is the supreme law of the land. The statutes contravened the rights of a woman to privacy as provided for in the constitution and thus had to be declared null and void. Roe Vs Wade is now a landmark decision and is widely used in courts in regards to abortion. The relevance of this case to business is that although it permits abortion, it has however set conditions as to who qualifies to procure an abortion. This is so because before the deciding of this case even unqualified medical practitioners would procure abortion, putting the life of the women at risk in order to get money. This cause has however put regulations to prevent exploitation of women by unqualified medical practitioners.

Legally speaking real property is land and its attachments. Buildings, machinery together with the benefits arising from the land such as profits and interests therein are also part of the land. Dolan Vs City of Tigard was a Supreme Court case where Dolan the claimant had applied for permit to expand her store. The permit was granted by the commission of city planning on condition that Dolan would donate part of her land for public use. She however appealed this decision and the court held that there was no relationship between the permit and the state interest and was thus unconstitutional to ask Dolan to donate part of her land for public use. The business relevance of this case is the fact that it has prevented organizations from exploiting individuals where there is no relationship between a person's rights to property and discretionary benefits.

Intellectual property refers to works of arts and the rights therein. Intellectual is derived from the word intellect, an idea or a creation of a person's mind. Examples of intellectual property include trademarks, symbols, copyrights, names, designs and patents. In Blizzard Vs BNETD, the auction for determination was whether three different software programmers who had created a similar game server were in violations of the copyright laws. It was held that the companies had acted contrary to the intellectual properties law and specifically the copyrights law. (Gordon, 2005) This case is relevant to business in that it ensures that the author of an invention enjoys sole possession of that invention. It thus prevents people from stealing other people's ideas for their benefit.

Just like with people every business has its own bill of rights. The bill of rights of a business ensures that fundamental rights of a business are not in

violated. It ensures that businesses are provided with conducive environment in order to thrive and make profits as is their goal. In a certain decided case a business had been taken to court over tax allegations. The Supreme Court held that a business had a right against harmful lawsuits that could prevent the business from growing. (Robert, 1977)

Administrative agencies are in most cases creation of the constitution or the government and their purpose is to address social crisis or expertise matters that are beyond the lawmakers. Their major role is to oversee the activities of expertise areas. In *Londoner Vs City and country of Denver* the petitioner was given a notice of assessment but was never given a deadline for hearing. He therefore sued the council for not giving him an opportunity to be heard. The Supreme Court held that the rights of an individual as provided in the constitution are paramount and thus administrative agencies must pay attention to that fact. The relevance is clear in that it prevents the agencies from imposing rules that interfere with individual rights.

Business torts include deliberate disturbance to prevent implementation of a contract, fraudulent misrepresentation, and unhealthy competition that interfere with potential business advantage. In *Zagami Inc Vs James Crove Inc* the plaintiff brought an action against the defendant for compensation of missing equipment. The defendant however refused claims of ever receiving the equipment. The court however decided the suit in favor of the plaintiff interpreting that fraud is a business tort that defendant was guilty of. This is relevant in business as it helps to stop scrupulous businessmen from engaging in malpractices.

A contract is an agreement between two or more parties that has a legal binding between the parties. The legal agreement gives parties in the contract rights and duties in the contract. In every contract all parties must have the intention to be legally bound. In *Balfour Vs Balfour*, a promise by a husband to his wife of a certain amount of money while they were living apart because the husband was working in another country did not amount to a contract. This is because parties did not intend to be legally bound because of the domestic context. Contracts are important in business as they ensure every person performs their portion of obligation accordingly.

The following are the answers to the follow up questions of the case topics already discussed.

The classical landmark case of *Roe Vs Wade* has its origin in the state of Texas. Roe who was the plaintiff instituted the case in 1970. The final verdict abolishing abortion laws was given in 1973. Therefore this case had been in litigation for three years. Jurisdiction is the power, authority and extent imposed on a body or person to exercise particular powers. In this case it is clear that the jurisdiction of abortion statutes was limited up to the limit of their inconsistency with the constitution. They could not be interpreted beyond their contrast with the constitution. In real property ownership although the owner has exclusive rights to that property, sometimes the rights are limited. This is mainly done through police powers where the government acquires private property for public use. For instance the government can acquire a person's land for the construction of the road. However the government usually compensates such individuals. In eminent domain the government imposes conditions that the will allows the public to

continue using a certain feature for instance road for their benefit. The principle here is that public interests override person's interest. Easements can be created in various ways. They include necessity, prescription which is the continued use of a land over a long time. They can also be created expressly in a similar manner with any interest in land. Easements run with the land. Servitudes are created by conveyance during transfer. To protect servitude the owner should give it equal treatment as a contract. An easement on the other hand is protected giving it an equal status as interests in land so that they are not easily lost by abandonment or otherwise. Servitudes are very important as they determine the use and value of a piece of land by their very contractual nature. Easements are considered important due to their effect on the servient tenement. They actually determine value of the servient tenement.

In intellectual property a patent is the property right in any invention. This property is conferred upon the owner or inventor by the patent and Trademarks office. A trademark on the other hand is a symbol, a name or word that is used on trade goods to distinguish them from goods of a similar kind but from a different source. A copyright is some form of protection on works of arts granted to original authors. This protection therefore prevents any other person other than the original owner from reproducing that work in any manner. The title to real property is considered permanent since even after the death of the owner the title can pass to the beneficiaries however in intellectual property it is limited to the lifetime of the original author since it can't be passed to the beneficiaries. The major difference between business speech and political speech is that business speech is majorly

marketing ones products and services while political speech involves marketing oneself. From the case examined previously business rights had been violated by as the business would have been adversely affected in terms profitability. Administrative agencies are majorly created to oversee expertise matters beyond the scope and knowledge of lawmakers. They have limited law making powers. They are also charged with the responsibility of arbitrating minor disputes. (Gilboy 1994) The administrative agencies report either to the president or specific officials. The legislative and judicial branches play a major role in enforcement of administrative agencies sine the agencies have to report or sometimes refer some matters to them.

The major torts involved in business are majorly fraud and misrepresentation or failure to fulfill ones obligations in a contract. (Michael 1996) Warranties are common in sale transactions where the seller gives an undertaking that the products or services offered are of standard quality. There are three main types of warranties namely express, implied and lifetime warranties. Warranties are applied in such a manner that when a given period lapses the warranty ceases to be in effect. Liability is imposed to ensure that businessmen especially take responsibility of their actions. Warnings by companies on packets of their products is not enough to protect them from liability as a duty is imposed on them by law requiring to provide the public only that which is harmless.

In the contract case examined above Balfour vs. Balfour the element in dispute was the intention to be legally bound. This conflict has been avoided by establishing the intentions of the parties. Other elements that could have

made the contract illegal include lack of consideration, threats and duress and lack of capacity to enter the contract. Remedies available to an aggrieved party in this case the plaintiff include damages, injunctions and specific performance. The following contracts must be in writing to be legally enforceable. A contract for the sale of land, a bill of exchange and a promissory note. (Macdonald, 2007)

References