

# Example of essay on international sale of goods

[Business](#), [Customers](#)



## **Part One: Advice to Cecil**

### Introduction

The case falls within the province of the Sale of Goods Law. The facts of the case are that Sven, the seller tendered for the transit of goods, the goods being 10000 cans of beetroot and 5000 cans of carrots. The goods were transferred in carriage by a carrier, the Maid of Orleans under the management of Pierre. During the transfer of the goods, the seller, Sven entered into a contract of sale with the buyer, Cecil. Cecil consequently received ownership of goods through a sale by description which in the same vein falls under a future sale. In overall, therefore, the case involves three parties, Sven, Pierre and Cecil.

Upon inspection of the goods by Cecil, it is discovered that the delivery of defective in the following ways. One, the beetroots have tiny holes and putrid and worthless. On the other hand the cans of carrots were contained in cans that were rusted and worthless. On further investigation it is obtained that the tiny holes existed even before transit had commenced and that the rusted cans of carrots were consequent of the leakage occasioned during the transit of the goods.

This state of affairs leads to a number of legal issues that would be solved within the confines of the application of the English Sale of Goods Act, 1979. It is this paper contention that the following are the claims arising consequent of the state of affairs. First, the goods are worthless and the buyer, Cecil, is entitled to reject the goods and sue for damages of breach of contractual obligations under the Sale of Goods Act. The remedies available include specific performance and or damages. It is incumbent on the buyer,

Cecil to elect what he desires to sue for. However, it is essential to note that Cecil cannot sue for the price since the property in goods had already transferred from the seller to the buyer courtesy of the endorsement of the bill of lading.

## **Issues**

The issues in this case occur in two levels involving all the three parties. The first issue involves the defective beetroots that had tiny holes in them even before the transit had commenced. This places liability on the seller, Sven. Cecil hence has to sue Sven for the breach of contract since the seller has failed to comply with the following express and implied terms of the contract. The goods are not of merchantable quality, the goods do not correspond to description and the goods are not of the right quality and fitness. This is in respect of the beetroot that have been found to be putrid and worthless and containing tiny holes.

On the other hand the second level of issues relate to the carrots that have been found to be rusted and worthless consequent of the rusted cans. Since the fault is borne by the carrier, Pierre, the claim arising is against Pierre. In addition, it should be noted that the duty of the buyer on the goods is transferred upon passing of property. In that context, the carrots which were of good quality at the point of possession by the carrier are no longer under the care of the seller. As a consequence, the goods were being held in trust by the carrier for the owner, the buyer, Cecil. Liability, therefore, devolves on the carrier and not the seller.

## **Rules and the Points of Law**

For both levels of claims, the substantive law that would be relied upon is the Sale of Goods Act, 1979. In addition, the rules shall be borrowed from judicial precedence and the general law of contracts. It is essential to note at this point that the Sale of Goods Law does not operate in a vacuum and relies heavily on the general law of contracts. The first level relates to the Beetroot in which Cecil, the buyer, should sue the seller, Sven. The operating and applicable provisions of the Sale of Goods are as follows. Section 17(2) postulates on the passing of property. According to the section, property passes from the seller to the buyer when the parties intend for the property to pass. This should be read in connection with section 34. According to section 34, the seller must afford the buyer a reasonable time for inspection of goods before acceptance for purposes of ascertaining the quality, quantity and other specifications as contained in the contract. This should also be read in connection with section 14 of the Act. According to section 14 (2B), the quality of goods entail includes the state and condition of the goods which is ascertaining in the following aspects, fitness for purpose for which it is intended, or appearance and finish or freedom from minor defects or safety or durability. It is obvious from the state and conditions of the goods that they do not meet the stipulations envisaged in the mentioned section 14. In addition, the goods fail to comply with section 15 which requires that the good must be of merchantable quality. The buyer, Cecil, relying on the breaches mentioned can elect to reject the goods and sue for breach of contract. He can seek for damages for the inconvenience suffered by the failure of the seller to meet the conditions or altogether rescind the contract

on grounds that the breach goes to the root of the contract as it is a breach of a term of the contract. Cecil will be relying on the law of contracts which provides for remedies for breach of contract that involves a breach of a term that goes to the root of the contract.

In addition, Cecil will rely on the body of case law which is wealthy with cases applicable. Some of the case he can rely on include the following. Howell v. Coupland in which the perishing of a contract of future goods was held to lead to the discharge of the contractual obligations only if the perished goods was not at the fault of any of the parties. In this case, the beetroot the subject of the contract are worthless and hence perished under the future contract. This perishing is at the fault of the seller hence he is held responsible. He can also rely on Grant v. Australian Knitting Mills Limited in which the courts held that the goods must correspond with the description. In Grant, the underwear given to the buyer did not have the qualities that had been described and the court held that the contract was breached. Similarly in this case, the beetroot have been found to putrid and worthless hence outside the description associated with them. In Priest v. Last, the courts outlined that goods must be fit for the purpose. This holding is in relation to the merchantable quality of goods. The goods must be merchantable quality to the extent that they perform the purpose. In this case, the beetroots fall short of the quality expected and is considered non-merchantable. In addition, Cecil will rely on Wren v Holt in which the court rejected the poor quality of beer, the subject of the contract and held that it was non-merchantable.

The second suit involves Cecil suing the carrier for the destruction of

property while on transit. It has been found that the goods were of the merchantable quality and condition during the transfer of possession from the buyer to the carrier. Consequently, property passed at the point of transfer of possession. However, the carrier did not observe his duties in relation to property in transit. The leakage of water into the ship that occasioned the rusting of the carrot cans to the extent that they became worthless. In accordance to section 32 of the Sale of Goods Act, 1979, the delivery by carrier, the duty is imposed on the carrier to deliver the goods in the quality and condition in which he was given. The carrier, Pierre is, therefore, liable under the law.

## **Conclusion**

The claims brought forth by Cecil are justified and he is entitled to a remedy. The function of the courts is to administer justice and this includes remedying the breach of contracts occasioned by the irresponsibility of parties. In this case the fault lies on Sven the seller and Pierre the carrier. The buyer, Cecil, must, therefore, be protected by the law.

## **Part two: Advise to Marco**

### Introduction

The case sits within the province of the Sales of Goods Law and the general applicable law of contracts. The facts of the case are as follows. Homer transferred 20000 jars of maple syrup to Marco courtesy of a carrier under Wayne. The transfer was through carriage and under the chartership contract the carrier could elect to appoint another carrier to deliver the goods and that the new deliverer, no liability accrued to the carrier. Since

the contract is silent on whoever acquires liability upon change of the carrier, the assumption is that the owner of the goods assumed responsibility. As it stands, the goods were being held in trust for Marco by Randy the current carrier. In addition, Homer the seller had transferred all documents of lading together with the accompanying documents including the insurance certificate, bill of lading, copy of the Randy Wayne charterparty and the sale invoice. Marco was waiting for the delivery of the goods when he noticed the discrepancies in dates of delivery and the fact that the market price for maple syrup has fallen. It is the position of this paper that Marco has no choice but to accept receipt of the goods despite the disparity in the bill of lading dates. In addition, it is the contention of this paper that the law examines the point of passing of property in the goods.

### Issues

The issues in this case resonate around the varying dates of the bill of lading. As it stands, the bill of lading was actually supposed to be dated February 2013. However, the charterparty is dated 6th June 2012 and the bill of lading from Homer is dated 1st March 2013. In this case, the issue resonates around the ownership of the goods and who exactly assumes liability and responsibility for the goods. As it stands, it is instructive to note that the issue is the defect in the dating of the documents. The bill of lading was supposed to be dated for February 2013 in accordance to the transactions and intentions of the seller, Homer and the buyer, Marco. However, the date indicated is 1st March 2013. In addition, the charterparty that transfers liability and ownership from the carrier to the actual owner of the goods is dated 6th June 2012. The issue, therefore, is whether Marco can

rely on the defective charterparty and disown the carrier's transfer from Wayne to Randy and consequently reject the goods. On the surface, this would be in his own interests given the dropped prices of maple in the market. However, it is imperative to note that the passing of property had already occurred and the defect in the dates is of no consequence. Consequently, it is the paper's position that Marco's cannot reject the goods. However, Marcos can sue for breach of warranty. This would be because of the late delivery which inconvenienced him. However, one cannot refuse to accept delivery especially since the property in the goods had already passed.

## **Rules and Points of Law**

The rules of law would be substantively derived from the Sale of Goods Act, 1979. In addition, the contract law and the general law is applicable in the solution of the case. It is important to examine the intention of the parties on the transfer of the property. According to section 17, the passing of property is determined by the intention of the parties. In connection to that section 18 provides for the rules of ascertaining the intention of the parties as to the passing of property in goods. In the context of the Marco case, the transfer of property in the goods occurred at the point Homer handed over the documents. This is in compliance with section 18 which provides that indeed property can pass with the handing over of the bill of lading and accompanying documents. Therefore, the handing over of the bill of lading and accompanying documents by Homer to Marco occasioned the passing of property. In that regard, the risk similarly passed from Homer to Marco. This is supported by section 20 which states that risk is transferred with the



passing of property in goods. In that breadth, the handing over of documentation signified the passing of property and the risks from the seller to the buyer. In fact, the accompanying document included an invoice drawn against the buyer signifying the fact that the buyer had become a debtor to the seller. It is from this premise that the paper contends that Marco cannot reject the goods. It is known in the law of contract that one cannot reject his own goods. In that regard, it is, therefore, important to examine the nature of the carrier contract as contained in the charterparty. The fact that the dates as reflected in the charterparty is defective invalidates the charter. In that context, the transfer of goods from one carrier, Wayne to the other, Randy under the defective charterparty is not valid. However, the property were being held in trust by the carrier for the buyer, Marco who has already assumed property in the goods. It is, therefore, instructive for the buyer, Marco to accept delivery as and when it arrives.

Over and above that Marco has at his own volition the opportunity to seek legal remedies for the late delivery. It is the law that where the contract is silent on the date of deliveries, the delivery should be made within a reasonable time. What is reasonable is a question of fact and subject to the court's own interpretation. However, the court often applies the tradition in the market in determining what is reasonable and what is not reasonable. Marco can then seek for the court to examine the reasonability of the transaction given the delay was so long to the extent that the market price of the maple had since fallen. In overall, the spirit in contract ought to guide the decision of the parties. It must be appreciated that the law of contract does not exist for the purposes of preventing or saving parties from a

making a bad bargain. However, the law would remedy a party that is inconvenienced through the fault of the other party. In this case, it has not been demonstrated that the delays in transportation was at the fault of any of the parties. In addition, the maple price is consequent of market fluctuations. In the same was the price has fallen so could it have fallen and those are the risks inherent in the business. The law places the burden and risks on the parties trading in the market. The intention of the parties in this case is clear despite the defect in the date of the documents. It is certain that the parties intended for property in goods to pass during the transit of the goods and that the property in the goods indeed passed with the transfer of the trading documents. In addition, despite the spirit of the charterparty was to transfer the carrier roles from the initial carrier to a new one with the consequence of devolving liability to the owner of the goods. This was in accordance with the contract which had envisioned such a scenario.

## **Conclusion**

Marco would not have a reasonable and justifiable claim. It is important to appreciate the fact that contract law is facilitative and the onus is upon the parties to ensure they negotiate to the best of their own interests. It is on that premise that it is often imposed by the law that contracts be entered into by parties with equal bargaining power. In this case the parties to the contract had the same bargaining powers. All the parties had accepted the conditions of the contracts. The occurrence fall within the confines of the agreed conditions. It consequently of no legal justification for Marco to seek legal redress simple because he entered into a bad bargain that had been affected by fluctuating market prices. In the long run, has mentioned before

contracts do not exist to save parties from wrong and uneconomic bargains. It is essential for commercial integrity and stability for the courts to avoid affecting or interfering with the market. The case would be decided in favour of the seller since from the intention it is clear that the parties intended to transfer property in the goods even before transit. The transfer of goods is accompanied by transfer of risk. Marco must therefore, assume responsibility.

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