

Good essay about foundations of law

[Sociology](#), [Communication](#)



Question one: Legally binding contract between Anthony and Joyce

The law of contract is clear given the dicey nature of the business environment. Generally, the purpose of the law is to support commercial transactions by ensuring that fairness and equity prevail in market transactions. In that context, it must be appreciated that the law cannot be relied upon to correct poor bargains. Far from it, the law can only be applied in pursuit of equity and in holding the parties to account in respect of their obligations to the contract. The law of contract operates under the principle of privity of contract. Under that principle, the obligations to the contract are binding to the parties that actively participated in the formation of the contract. In this particular context, the contractual parties are Rocco Limited represented by Anthony and House of Style represented by Joyce. The question has to whether the contract between Rocco Limited and House of Style is legally binding depends on the interpretation of the law. The beauty of the English law is the reliance on judicial precedents previously set on the same or nearly related matters. Under the prevailing precedents in the postal rule, it is the postulation of this paper that the contract so entered is binding and legal and that failure by any parties to meet their obligations shall lead to repudiation of the contract in turn entitling the aggrieved party to damages. In the ensuing discussion, the paper shall canvass the issues at hand and why the contract is considered binding.

Perhaps the first step in addressing the issues at hand entails an understanding of the circumstances. This is in appreciation of the fact that in contract law, there are no hard and fast rules. In fact, the supervening

circumstances as at the date of the event are what determine the obligations to parties. In this case, Anthony, representing Rocco Limited, gave an offer to make delivery of the first 100 pieces at 350 pounds. However, the House of Style had until midday Wednesday to accept the offer. Under the law of acceptance of contract, such acceptance must be active and silence cannot be interpreted to mean consent. This was clearly demonstrated in the case of *Felthouse v Bindley* where the plaintiff purported to argue that the failure of the defendant to indicate whether he would sell the horse or not indicated consent. However, it is always appropriate to agree on the means of communication of the said consent. This is because the issue as to the means of communication could determine whether the contract would be treated as legitimate or not.

In this particular case, it is not clear whether the parties had agreed on what mode of communication to be applied in communication. In fact, it comes out clearly that the parties had a number of options of communication which included but was not limited to post, telephone and physical visitation for purposes of oral communication. It should be appreciated that under the law, the determination depends on what communication channel is being used. This is because the postal rule of communication is fundamentally different from the other rules of communication of acceptance. Under the postal rule, acceptance is deemed communicated upon the posting of the letter of acceptance. The posting is interpreted as the act of having dispatched the letter and handed it over to the post office by virtue of having inserted it into the box. The case of *Adams v Lindsell* is used illustratively. In that case, the court held that where it was clear that communication would be through the

post office, the posting of the letter would be deemed as the formal communication of the acceptance. It is imperative to note the point of communication of acceptance. This is because the other party cannot purport to withdraw from the contract after the communication of acceptance. Such a withdrawal would be against the spirit of commercial transactions and the law would generally avail the other inconvenienced party damages. It is thus critical to note the point of communication of the acceptance. The case of *Byrne v Van Tienhoven* took the interpretation to its extreme where the court held that it does not matter whether the same letter is received or not. The disappearance of the letter does not dispense with the acceptance in as much as the same acceptance can be proved using other means. Indeed, this interpretation was seen as a progressive interpretation given that the disappearance does not dispense with the spirit of the parties to contract. Applying the interpretation to the case in hand, the question that remains for determination is whether the said postal mechanism was the agreeable means of communication given that other means of communication were equally available.

Under conditions where it is the post office that is traditionally used to communicate acceptance, such an acceptance would be binding to both parties. However, where the other communication methods were specified, the postal method would be considered auxiliary and therefore not lead to a binding contract. Given the circumstances of the case, this paper is persuaded that the postal method was the traditional means of communication and therefore the communication of acceptance before

reception of the withdrawal of the offer is binding on both parties and as such Anthony is bound by the terms of the contract.

Question two: Legal consequence of Anthony's call to Taz

It is imperative to appreciate the spirit of contracts in interpreting the legality or otherwise of revocation of contracts. As long as the contract so formed was complete and valid in the sense that no vitiating elements arise, a withdrawal by one party is not acceptable and that party merely affords the other party a chance to sue for damages. It is foremost crucial to appreciate the fact that the courts do not suffice to correct parties from their bad bargains. That responsibility is left to the knowledgeable business persons to do. The court's function is to ensure that the parties observe the rule of the law and that commercial transactions are facilitated. To that extent, the court would give premium to legitimately agreed upon contracts and seek to have them enforced. In that context, it is unheard of for one to purport to withdraw from a contract merely on grounds of a bad bargain. In that respect, it is the contention of this paper that the purported telephone call made by Anthony to Taz purporting to cancel the contract is not binding. Ideally, the doctrine of estoppel would apply to prevent Anthony from purporting to withdraw from the contract. The English jurisprudence is replete with cases where the courts held that the parties are bound by the terms of the contract despite the apparent bad bargain seen in the same. The law must work to provide certainty and fairness and it is thus necessary that the parties after being bound by the contract dispense their obligations. Perhaps the best case is seen in *Central London Properties Limited v High Tree House Limited* where the defendants were estopped from reneging on

their agreement to charge a lower rate of rent during the duration of the World War. It was held that the parties were estopped from reneging on the agreement they had arrived at in which the plaintiffs had been allowed to stay in the premises at a lower rate. This case is similar to the Anthony case in that the parties had agreed on a contract and later purported to withdraw from it without any reasons other than the realization of having made a bad bargain. Again, the fact that courts do not exist to remedy parties from their bad bargains cannot be overemphasized.

Additionally, the case of *William v Roffey Bros and Nicholls Ltd* can be used illustratively to show the flexibility of the courts in considering the supervening circumstances. In this case, the court allowed that the contracting parties be paid additional consideration given the economic conditions that had changed making reliance on the previous agreement economically untenable. However, this needs to be distinguished from this particular case as in this case, no fundamental changes have occurred to warrant a renegotiation of the contractual terms and conditions. In addition, the purported call by Anthony that cancels the offer purports to give another offer which is altogether considered a counteroffer. It is imperative for Anthony to appreciate that he has since passed the stage of giving offers. Once an offer has been flouted and validly agreed to, it remains binding to both parties and it is only factors falling on the class of frustrating events that can warrant termination of the said contract without parties being held liable for the non-performance of their terms of the contract. It is imperative to appreciate that the law of contract is fair to both parties and seeks to provide a sense of certainty. Additionally, it is crucial to appreciate the fact

that contracts must be arrived at by parties who have the capacity to contract. The only vitiating factors include issues of duress, undue influence and or lack of capacity. If the parties involved, were of the full age, were sober and were not compelled into the contract, the same remains binding despite the bad bargain on the part of one party.

In conclusion, it is the postulation of this paper that Anthony's purported cancellation of the contract has no backing of the law. Under that context, the same is not binding to the other party. The party has the option of performing their obligations and suing for damages for the failure of Anthony to perform his own part. On the other hand, the party may equally elect to renege on his own part of the bargain in turn occasioning the natural death of the contract.

Bibliography

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