

Good essay on rule of law

[Business](#), [Company](#)



Issue

The issue is whether Barry can insist on the existence of the contract for renewal of his employment and, if not, whether he can rely on promissory estoppel. Another issue in the following case is whether Barry has a right to receive promised bonus.

In common law contract can be defined as legally binding agreement between two or more competent parties. In order for a contract to be valid, it has to contain necessary elements – offer and acceptance, consideration and legal intention of the parties to enter into a contract. Even if one of those elements is missing, an agreement may not be deemed as a legally binding contract.

Offer and acceptance serves as an initial step in the formation of the contract. One of the parties (offeror) expresses his intention to be obligated by the terms of the agreement. This step is usually followed by the acceptance of the terms of the agreement by the other party, offeree. Offer and acceptance must be supported by a consideration. Consideration can be anything of value, usually goods or services that the contracting parties must exchange with each other. Also, consideration may take the form of promised actions or forbearance from certain actions.

Intention to be legally bound by the contract is usually assessed on the basis of an objective test which defines whether a reasonable person, considering the circumstances of the case, would assume that the parties intended to enter into legally binding agreement.

Offer is an initial step in the formation of the contract. Offer is an act of

expression of willingness to be legally bound by the terms of the contract, provided that the party to whom the offer is addressed accepts the latter.

One of the important requirements is that the offer must contain vital terms that constitute the essence of the contract. For example, a sale of goods offer must include a description of goods/services and the price.

Acceptance of the offer must be made with the full knowledge and understanding of the offer and be unequivocal. (Law Handbook)

In *Smith v Hughes*, the court established a rule according to which in order to determine whether the contract is valid, the intent of the parties must be objectively clear to a reasonable person who is not a party to the contract. It entails yet another requirement to the contract formulated in the Latin phrase “*consensus ad idem*”, which means “agreement to the same thing” and is similar to “meeting in minds” concept. Essentially, it means that if the parties do not have a common understanding of the contracts’ object, there can be no legally binding agreement between the parties and the contract may subsequently be deemed void.

Estoppel is a general legal principle according to which a person is barred from alleging of certain facts that are contrary to any acts or deeds that were previously established either by that same person or judicial or legislative officials. One of the major types of estoppel is promissory estoppel. The promissory estoppel might be used as special legal relief when one party makes a promise (promisor) to the other party (promisee) and later revokes that promise. (Black’s Dictionary)

The doctrine of promissory estoppel was first established in *Hughes vs. Metropolitan*. In that case, the plaintiff sued the defendants for the breach of

the contract wherein it was stipulated that defendants (tenants) must repair leased buildings within a sixth month after the notice made by the plaintiff (the owner of the building). The notice by the plaintiff was followed by the defendant`s offer to purchase the building. Negotiations lasted for about a month and eventually came out to be unsuccessful. At the end of the sixth month term, the plaintiff sued the defendant for the breach of the contract (repair requirement). House of Lords ruled that it was unfair from the side of the plaintiff to sue tenants for the failure to make repairs, as during the negotiations it was implied that the sixth month term should be stalled. The court ruled that if one party reasonably relies on the implied promise that was made during the negotiations, it is unfair to act against that promise. (Hughes v Metropolitan)

The doctrine of promissory estoppel was reaffirmed in Central London Property Trust Ltd v High Trees House Ltd. Defendant, High Trees House, leased a block of flats from the plaintiff, Central London Property. During the bombings of London occupancy rates significantly decreased, and the parties agreed to reduce the rent by half, however, they did not specify the period for which the reduced rent is to be applied. By the end of the war, in mid-1945 the occupancy rates went back to normal. The plaintiff brought an action against the defendant to reimburse the cost of the full rent since the June of 1945.

It was stated in court`s ruling that full rent must be paid only since the June 1945. In his obiter dictum, the judge stated that if the plaintiff demanded to pay the full rent since 1940, he would not be able to do that. It was based on the idea that if one party makes another party believe that he will not

enforce his rights, suing that other party for the breach of the contract would be unjust, and the court must prevent that party from doing so. This opinion of the judge was not strictly precedential, but it gave rise to the modern doctrine of promissory estoppel.

In Australia, the doctrine of promissory estoppel was significantly extended as the result of the High Court of Australia decision in *Waltons Store (Interstate) Ltd v Maher*.

The Mahers, who owned land property with the building, entered into negotiations with Waltons Stores, department store company. The purpose of the negotiations was to lease land from Mahers on the condition that the old building will be demolished, and a new one erected. The parties reached an agreement as to the terms and conditions of the contract, however, the contract itself was not concluded – Waltons decided to slow down negotiations in order to assess the profitability of the transaction. Despite the fact that the lease was not signed, Maher started to demolish the old building, and after the demolition had been completed, he commenced the construction of the new building. Maher properly informed Waltons about his actions, but they remained silent. Later, Walton`s informed Maher that they do not wish to proceed with the contract.

The Court in the following case estopped Walton`s retraction from his legally binding obligations. Maher acted in reasonable reliance on the promise and assumed that he was already in legal relations with the other party, even though the contract was not formally concluded. Walton`s had numerous chances to inform Maher of their reluctance to sign a contract, but they chose to ignore Maher`s notifications. The court ruled that Walton`s inaction

in this case made Maher believe that Walton`s were content with Maher`s actions (demolition and subsequent construction of the new building).

In that decision Judge Brennan has outlined circumstances under which an equitable estoppel might be established:

- the plaintiff assumed that a legal relationship existed or would exist between him and the defendant.
- the defendant, either by his words or actions, induced plaintiff to assume so.
- the plaintiff either acts or abstains from action in reliance on that assumption.
- the defendant intended him to do so.
- it will cause detriment to the plaintiff if the assumption or expectation is not fulfilled.

This criterion has since served as the rule that helps to determine whether promissory estoppel might be the cause of action in a particular case.

Analysis

The issue in Barry`s case is whether there is a contract for the renewal of Barry`s employment. As we can see from the presented facts each of the parties relied on their personal understanding of the agreement that was made. Barry assumed that the agreement implied that he will continue working in the company, and the employment contract will be renewed. Iva, on the other hand, stated that the company is not committed to renewing the contract and is free to terminate cooperation with Barry upon the lapse of the existing contract. Obviously, the following situation must be assessed from the objective point of view regardless of Company`s and Barry`s

position.

In these circumstances, we have to resort to the test established by Smith vs. Hughes case.

In Barry`s situation, considering the facts, one can assume that Iva`s offer and Barry`s acceptance of the offer may not concern the issue of the renewal of the employment contract and, therefore, may not be deemed as a valid contract. Barry`s offer does not constitute the offer that would normally be expressed in case the employer would propose to renew the contract to the employee. The offer contained none of the key terms of the employment contract i. e., the issues relating to the duration of the new contract, compensation, bonuses, etc. Barry, being misled by the Iva`s proposal to continue working on the company, assumed that the contract will eventually be renewed and accepted the offer. This acceptance does not conform with the idea that the accepting party should be in full knowledge of the contracts` object. Obviously, the requirement that the parties to the contract must be unanimous in their understanding of the object and essential terms of the contract was not fulfilled. Barry and Iva had a different understanding of their agreement which resulted in the mutual misunderstanding.

As to the question of the healthy bonus, it seems that it can be regarded rather as a bonus for the invention that has already been made, but not as a consideration for the promise to continue the work in the company.

If we apply the rules established by the abovementioned cases to the facts of our case, we see that probably the only chance for Barry to receive any relief is to rely in his action on the doctrine of the promissory estoppel. The facts of the case conform to the criterion established in Waltons Store

(Interstate) Ltd v Maher – Barry reasonably expected that legal relationship would exist or, better to say, would continue to exist after the renewal of the contract as Iva's words implied that the company is interested in the continuation of their cooperation. Moreover, on the basis of Iva's promise, Barry declined a job proposition from another company in reliance on that assumption. This reliance later caused detrimental effects for Barry as he had to look for a job for six months and subsequently accepted position with a considerably lower salary than he had at VitaGrow. Unconscionability is one of the essential elements that will be taken into account when the court establishes the existence of promissory estoppel. (Spence) If the court indeed establishes that the defendant acted in a dishonest way during the negotiations, then the chances of a successful case considerably increase. Having analyzed Barry's case, we see that the parties as a result of the discussions did not enter into a legally binding contract as none of the constituting elements of the contract is present in their agreement. Even though the contract was not formed, Iva made a promise that led Barry to the assumption that the company is willing to continue their long-term cooperation. As a result Barry, to his detriment, had to turn down the GlowFloss offer. In the following situation, it seems reasonable to rely on the doctrine of promissory estoppel in the support of Barry's claim.

Conclusion

Considering the facts of the case and relevant rule of law we can conclude that even though the parties did not enter into a formal contract, due to the implied promise made during the negotiations Barry can, in the support for his claim, rely on the rule of promissory estoppel as the cause of action. Due

to the absence of the contract, that might be the only way for Barry to receive a remedy in a given scenario. As to the question of bonus, Barry is entitled to receive it in any case as it was promised as a reward for Barry's invention.

Bibliography

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