

Business law donoghue v stevenson case

[Business](#)



Lord Atkin, one of the case's judges, had mentioned the "Neighbour Principle", stated that a person is responsible not to harm another party or parties if he or she can directly affect them. In other words, the neighbour in this meaning is anybody who can be affected by the act or the omission of that person. c) Donoghue and Stevenson was an English case. Stevenson was the manufacturer of soft drinks and Donoghue was the consumer of his product.

Donoghue drank a bottle of Stevenson's ginger beer before she found in the end that there was a dead snail in the bottle.

She was shocked and suffered from gastroenteritis. However, she could not sue the seller of the ginger beer since she was not the one who bought it.

Instead, she sued the manufacturer, Stevenson, for negligence. Stevenson argued that he was not liable for the injuries as there were not any contracts between them. [2] d) Mrs.

Donoghue did not have any contracts with anyone. Stevenson did not make any offer to her, which meant that the first basic element of a contract between two parties, an offer, was missing.

Thus, it also meant that between Stevenson and Donoghue, there were none any of the rest elements which are acceptance, consideration, and the intention to be legally bounded. In fact, Donoghue was not even the one who bought the drink. Her friend bought it and gave it to her. Thus, there was no contract in this case.

e) This case is a civil case because it was a case between one party (Donohue) against another part (Stevenson) not a case between a person against the state. In addition, the remedy for this case which Donohue was looking for was the compensation which is the civil cases' remedy not a punishment which is a criminal cases' remedy.

Question 2 Contracts are agreements between two or more parties[3], which is intended to be legally binding. In order to create a contract, there must be an offer and acceptance. An offer is an expression of intention by one party (offeror) to another (offeree) to show his wiliness to perform a promise and be bound by the promise if the offer is accepted the offeree.

Both parties have to understand each other that by accepting the offer, there will be a contract between them. They have to clear every point in the contract so there will not be a misunderstanding later.

Misrepresentations are wrong statements made by one party to another party. It might happened to ensure the other party so that he will accept the offer. There are three types of misrepresentation. The first type of misrepresentation is fraudulent misrepresentation.

Fraudulent misrepresentation is an act of saying an untrue statement that make the third party get into the contract. The acceptance of fraudulent misrepresentation can claim damages and sue him if he suffer a lot of loss. The second type of misrepresentation is negligent misrepresentation.

Negligent misrepresentation is an act of saying a statement without any proof or concern about his words. The acceptance negligent

misrepresentation can cancel the contract if any damages found or out of the words that the offeror said. The third of misrepresentation is Innocent misrepresentation.

Innocent misrepresentation is an honest statement the the offeror said innocently. The acceptance of Innocent misrepresentation cannot cancel the contract if the contract has already been performed, unless the contract has not been performed, the acceptance could cancel the contract.

Question 3 An agent is a person who gets the authority that given by the principle. The agent is given the power to establish a legal relationship with the third party on behalf of the principle. Hence, the agent obtains authority to act as an agent by getting an authority from the principle as his representative[4]. Once he gets the authority, the contracts that he makes with the third party become the contract between principle and the third party.

For example, an agent makes a contract with John whom is the third party.

John wanted to buy Steven's car. By signing the contract, it means that John has agreed that he will buy Steven's car even though they never meet each other. Contractual relationship is a legal relationship between a third party and the principal. This relationship is significant once the agent have a contract with third parties where the principals can be revealed.

Usually, the third party does not know about the existence of the principal when making a contract. The agent work as If he is working for him self to sell the thing.

The general rule is that where the agent conceal the existence and the identity of his principal, the agent is also not responsible for the contract between principal and the third party. Section B Question (a) I have researched about this case and I finally found out that a Srilankan couple was trying to sue Qantas for their negligence action. Sam Samaratunga and his wife Rani say they were thrown around the cabin over Western Australia when their seatbelts broke apart and suffered serious injuries during the flight from Singapore to Perth last month.

The Samaratungas believe that they were going to die during that accident and that was the worst experience of death they ever had.

Mrs Samaratunga suffered the most serious injuries, including spinal fractures, muscle tears and head injuries in which she lost several teeth. Mr Samaratunga was propelled head-first into the locker above his seat, hitting it so hard that it broke. He suffered spinal and other back injuries, headaches and trauma. " We have provided immediate and ongoing support for all customers - those who were injured and those who were not," Qantas group general manager customer product and service Lesley Grant said.

From the points that we could see that the Samaratungas family has suffered a lot of pain such as muscles tears and head injuries. Besides, they have a bad trauma.

They are likely to succeed in suing against Qantas using three elements of negligence. Firstly, Qantas has a duty of care to the passengers as 1. The damages were foreseeable since the reasonable air line would have known that, if they are not prepared in any possible emergency cases, the damages

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can happen. 2. There were proximity between the passengers and Qantas, obviously, since the passengers are the clients of the air line. .

There are no public policy that against the statement saying that the air line should be responsible for the safety of the passengers. Secondly, Qantas could prevent the incident to happen if the company had practiced the standard of care, which the passengers could claim that Qantas didn't, seeing from the damages caused by the low standard of basic safety equipments such as seatbelts. A reasonable air line should have been prepared for any emergency cases and keep the standard of its safety equipments high. Thus the company had breached the proper standard of care.

Finally, the lack of care from Qantas did cause the damages.

The company carelessness had caused this Srilankan couple and many other people on board serious injuries. From the three elements, any passengers on board could successfully sue Qantas. The company, however, could have use the defence of negligence that the passengers of the air line would have known the risk of flying and were willing to take it or in the other word, use the defence of voluntary assumption of risk, which in this case, is not very reasonable and is likely to fail. Question (b)) No, this is not an acceptance of the offer made by SNOC. In this case, the offer made is a unilateral[5] and it only requires a person or party to conduct an act cordingly to be considered as an acceptance of the offer.

In this case, the person has to win the gold medal and it will be given only to Singaporean or a Singapore permanent resident. So for this example,
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Samivelu does not accept the offer even he is a Singaporean because he has to win the gold medal first before he can accept the offer. 2) No, she is not entitled to the award because the gold was taken away from her.

The requirement to accept the offer from the SNOC is to get the gold medal but unfortunately the gold medal was taken away as she used the drug for her winning. Thus, she did not completely conduct the required act so there was no acceptance. 3) Yes, they are allowed to revoke their offer.

The offeror can revoke the offer as long as there is no acceptance yet[6]. In this case, since no body could win the gold medal, it means they have no acceptance so they are allowed to withdraw the offer and concentrate in giving a better offer in SEA games and Commonwealth games but they have to announce the revoke of the offer so that people would know.