

A problem question on company law



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Issue

The case is about a large flower shop where the conflict between a manager and the two workers arose. The employer of the manager, James, pays him a salary of \$100, 000 per year to manage the business, which includes some 15 employees, including 2 cleaners and 6 flower arrangers.

Two flower arrangers, Dan and Sam, have been pestering the manager for weeks about getting an increase in their hourly rate. The manager has repeatedly explained to Dan and Sam that he cannot agree to a pay rise without first speaking to James, and that as he is overseas, that will not happen until the end of the month. Dan and Sam are becoming increasingly frustrated with his refusal to consider their request. One Wednesday morning (the busiest day), Dan and Sam confront the manager and tell him that unless he agrees to increase their hourly rate by \$5 per hour, they are going to walk out with the 4 other flower arrangers, leaving the manager to fulfil the orders on his own. The manager has no choice but to agree to their request, as there are four wedding orders that must be done today. The manager promises to adjust their pay as requested. Once the day is finished, you sit down and consider the ramifications.

This essay argues that:

- Is the manager legally obliged to keep his promise? What are the legal remedies?
- If the manager did not agree to their terms, and they walked out, what would he have been able to do if the orders weren't fulfilled and the business lost \$10, 000/-?

Law

Stilk v Myrick [1809] [1] is a contract law case of the English High Court on the subject of consideration. In his verdict, the judge, decided that in cases where an individual was bound to do a duty under an existing contract, that duty could not be considered valid consideration for a new contract.

According to the Law of Employment [2] Each contract [3] of employment contains terms and conditions by which the parties of the contract i. e. employer and employee regulate their relationship. These terms may be in black & white or spoken. More often, the appointment letters, job descriptions, policy manuals, workplace rules & practices are considered to be the part of terms of the contract. Such terms impose a legal binding on both of the parties of contract to perform their consideration in adequate manner. These terms can also include restrictions such as period of employment, amount of wage, serving of notice periods, etc...

Application

According to the aforementioned case, *Stilk v Myrick* [1809] and keeping in view the principle of precedent, the manager is not legally obliged to keep his promise, because there was no additional consideration, fulfilled by the workers who remained at the flower shop against the additional pay which they claimed. Before they start pestering the manager for the salary increase they had undertaken to do all that they could under all the circumstances at the workplace. They had sold all their services at the previous wage rate. Therefore, without looking to the policy of this agreement, it is void for want of extra pay for the same consideration which

they committed before, and that the plaintiff can only recover the same, without making any claim for legal remedies.

As discussed above, if the terms of agreement carries any binding of serving a fixed employment period or a notice period before leaving the employment then the employees could not blackmail the manager by saying that they will quite immediately, if no rise of pay is made by the manager. In this scenario, the employees will be liable to pay for the damages resulted by their breach of employment contract. Such damages can be calculated by two ways: The Expectation Interest [4] and The Reliance Interest [5] .

Conclusion

In view of above and the principle of precedent[6], it can be concluded that due to no offereing of any additional consideration from the end of flower arrangers and trying to blackmail the manager for promising them to pay extra wage, the promise made by the manager becomes null and void and has no legal value. Thus, the manager is not legally obliged to keep his promise and for any of the legal remedies.

Bibliography

Books

- Contract Law, 7th Edition by Poole, Jill
- Contract Law, 7th Edition by McKendrick, Ewan
- Black Law Dictionary, 5th Edition

Articles

- Legal Studies by P Luther, ‘ Campbell, Espinasse and the Sailors’ [1999]
- ‘ Consideration: Practical Benefit and the Emperor’s New Clothes’ by M Chen-Wishart, in *Good Faith and Fault in Contract Law* [1995] by J Beatson and D Friedmann

Weblinks

- The Law Handbook [<http://www.lawhandbook.org.au/handbook/>]

[1] *Stilk was contracted to work on a ship owned by Myrick for £5 a month, promising to do anything needed in the voyage regardless of emergencies. After the ship docked at Cronstadt two men deserted, and after failing to find replacements the captain promised the crew the wages of those two men divided between them if they fulfilled the duties of the missing crewmen as well as their own. After arriving at their home port the captain refused to pay the crew the money he had promised to them. When the matter was brought in front of the court the decision was made by the Judge, that since the crew members made no extra performance as consideration of the contract, thus they are not entitled to receive any extra wage for that.*

[2] *The type of law that governs the employer and employee relationship, which includes employment contracts of individuals.*

[3] *An oral or written agreement, such as relating to employment, sales, etc..., that has ability of enforceability by law.*

[4] *The court aim to put the plaintiff in the position which he would have been in, if the contract had been performed.*

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[5] *The court aim to put the plaintiff in the position which he would have been in, if the contract had not formed*

[6] *A precedent is a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts .*