

# Farmgirl broke the contract with pastaman

Law



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The principle inherent to this case is consideration. The legal meaning of consideration is not very different from the everyday usage of the term. From a legal standpoint, consideration can be seen as any act or forbearance which is of benefit to the person making the promise (promisor) or detriment to the person accepting the promise (promisee). Consideration is something that is done or promised in return for a contractual promise, and is a fundamental concept in the law of contracts (Simpson, 1987); without which a contract would not be enforceable. Judgment would be made on this case after the following analysis:

The agreement between Pastaman and Farmgirl bore all the hallmarks for the existence of adequate consideration. According to Pollock (1906), one of the most basic elements to test for consideration is the premise that something must move from the offeree to the offeror. That is, the person making the offer must be expecting something in return. In this case, Pastaman offer to buy all of Farmgirl's produce, including the excess was the item that was moving from him to Farmgirl. On the other hand, Farmgirl's acceptance to sell all her produce to Pastaman, and no excess to a third party without his consent was the item that was moving from her to Pastaman. However, the alibi of consideration here became subjective or destroyed, given that her agreement to the contract was an aspect of detrimental reliance (Gordley, 1997) on Pastaman's agent who claimed that their company had never sought the enforcement of the consideration clause. Farmgirl obviously acted on the belief that there was no consideration and she had no obligation to respect the terms of not selling her excess tomatoes to a third party. As was seen in the famous case of *Tweddle v Atkinson* (1861)<sup>1</sup> if no consideration is present, then the contract

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may not be enforceable, even if it contains a clause to the effect that it should be enforceable. In this landmark case the absence of consideration prevented Tweddle implying a contract between himself and Atkinson (see: TweddleVAtkinson1861). However, Powell (1790) contended that another important factor that showed consideration was forbearance. That is, the consideration is said to exist when one party accepts to fail to carry out an act. Farmgirl never agreed to seek Pastaman's consent before selling her excess tomatoes to third parties. So there wasn't any act of forbearance here and hence any consideration.

In a related line of argument Holmes (1881) and later Williston (1914) held that for consideration to exist between two parties there must be agreement terms wherein failure to comply could enable one party to enforce a contract in court. In like manner a promise which is conditioned upon the whim of the promisor is not consideration. When such terms can be inferred from an agreement between two parties, it means there isn't adequate consideration. Pastaman's promise to buy Farmgirl's excess produce was just conditional, as one can deduce he would only buy should he need them. And on the event that it never needed the excesses, Farmgirl would have to face probable losses. Hence there wasn't sufficient consideration.

From the arguments following, there was a complete absence of consideration and the opinion held is that Farmgirl was not bound to concert with Pastaman before selling her excess products.

However, a close look at the events in the second part of the case would help give an overall ruling. Farmgirl was under contract to sell her tomatoes to Pastaman, and had no right to sell to a third party without having met the full demands of Pastaman. This was irrespective of the outcome of the <https://assignbuster.com/farmgirl-broke-the-contract-with-pastaman/>

planting season. So Farmgirl's action to sell to Spaghettbody Inc. simply because a bad planting season raised the prices of tomatoes, constituted a breach of contract. Such a breach would have been reasonably avoided if Farmgirl acted in good faith by suggesting that Pastaman man buy the tomatoes at the high price that Spaghettbody Inc. offered. Hence, Farmgirl must compensate Pastaman for the breach of contract, as well as for other losses incurred as a result of not meeting customer demands with the favorite tomatoes.

#### References

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