

Law case study wholesome vegetables Ltd

[Education](#)



**ASSIGN
BUSTER**

INTRODUCTION A contract has been defined as a legally binding agreement or, in the words of Sir Frederick Pollock: ‘ A promise or set of promises which the law will enforce’. However, not all promises or agreements give rise to contracts. According to the case study, Andrew, who works as a salesman at Wholesome Vegetables Ltd, offering to sell Ben 100 bags of potatoes at ? 10 per bag. At first Ben accepted Andrew’s offer but when he heard the news about a slump in the price of potatoes which has fallen to ? 7 per bag, he refuses to accept delivery of Andrew’s pricey potatoes.

Therefore there are some issues discussed based on this situation. The discussion includes the requirements that must be met for a contract to exist between Andrew and Ben, the legal effect of Andrew’s fax and Ben’s letter and the explanation of Ben’s text message. QUESTION 1 A contract has many definitions, but one of the simplest definitions for a contract is a “ promise enforceable by law” (Michael. H, 2010). The promise may be to do something or to refrain from doing something. The making of a contract requires the mutual assent (agreement) of two or more person, one of them normally making an offer and the other accepting it.

If one of the parties (persons) fails to keep his or her promise, the other is entitled to legal recourse against that person. There are seven requirements necessary for a contract to be valid (Riches. S, 2009): 1. Agreement The first requisite of any contract is an agreement. At least two parties are required; one of them, the offeror, makes an offer which the other, the offeree, accepts. In this case, Andrew is the offeror and the offeree is Ben. 2. 1 Offer An offer is an expression of willingness to contract made with an intention

that it shall become binding on the offeror as soon as it is accepted by the offeree.

A genuine offer is different from what is known as an “ invitation to treat”, i. e. where a party is merely inviting offers, which he is then free to accept or reject. The following are examples of invitation to treat: auction, display of goods, advertisements, mere statements of price and tenders. An offer can be terminated by acceptance, rejection, revocation, counter offer, lapse of time, failure of a condition and death. 2. 2 Acceptance Once the presence of a valid offer has been established, the next stage in the information of an agreement is to find an acceptance of that offer. The acceptance must be made while the offer is still open.

It must be absolute and unqualified. 2. Consideration The mere fact of agreement alone does not make a contract. Both parties to the contract must provide consideration if they wish to sue on the contract. This means that each side must promise to give or do something for the other. 3. 3 Executory consideration Consideration is called " executory" where there is an exchange of promises to perform acts in the future, eg a bilateral contract for the supply of goods whereby A promises to deliver goods to B at a future date and B promises to pay on delivery. If A does not deliver them, this is a breach of contract and B can sue.

If A delivers the goods his consideration then becomes executed. 3. 4 Executed consideration If one party makes a promise in exchange for an act by the other party, when that act is completed, it is executed consideration, eg in a unilateral contract where A offers ? 50 reward for the return of her lost handbag, if B finds the bag and returns it, B's consideration is executed.

There are some rules governed in consideration. Consideration must not be in the past. If one party voluntarily performs an act, and the other party then makes a promise, the consideration for the promise is said to be in the past.

Past consideration is regarded as no consideration at all. Consideration must move from the promisee. If A (the promisor) makes a promise to B (the promisee), the promise will only be enforceable (unless made in the form of a deed) if B can show that he has provided consideration in return for A's promise. Consideration must not be illegal. The courts will not entertain an action where the consideration is contrary to a rule of law or is immoral. Consideration must be sufficient but need not be adequate. It must be possible to attach some value to the consideration but there is no requirement for the bargain to be strictly commercial. . Intention The parties must intend the agreement to be legally binding. The nearest the courts can get to discover this intention is to apply an objective test and judge the situation by what was said and done. The law divides agreements into two groups, social ; domestic agreements and business agreements. 4. Form Some contracts are indeed in writing but the majority are created much more informally either orally or implied from conduct. Generally, the law does not require complex formalities to be observed to form a contract. Some types of contracts which are exceptions to this rule.

They are contracts which must be in the form of a deed, contracts which must be in writing and contracts and contracts which must be evidenced in writing. 5. Capacity Capacity is also one of the requirements for a contract to be valid. The parties must be legally capable of entering into a contract. There are, however, some groups of people who are in need of the law's

protection either because of their age or inability to appreciate their own actions. The groups which are covered by special rules are those under the age of 18 (minors), mental patients and drunks. . Genuineness of consent

The most basic requirement of a contract is the presence of an agreement. It must have been entered into voluntarily and involved ‘ a genuine meeting of minds’. The agreement may be invalidated by a number of factors which are mistake, misrepresentation, duress and undue influence. 7. Legality The principle of freedom of contract is subject to a basic rule that the courts will not uphold an agreement which is illegal or contrary to public policy. Where the contract involves some kind of moral wrongdoing, it will be illegal.

If, however, the conduct is neither immoral nor blameworthy, but simply undesirable, the contract will be void. A court may object to an agreement either because of a rule of common law or because it is contrary to statute. In a nut shell, all the requirements stated above must be met for a contract to exist between Andrew and Ben. Question 2 In the case study given, Andrew’s letter on the 21st February is considered as an offer in the law of contract. An offer is an expression of willingness to contract made with the intention that it shall become binding on the offeror as soon as it is accepted by the offeree.

It is clearly stated that its an offer when Andrew wrote a letter to Ben, owner of the retail shop offering to sell him 100 bags of potatoes at 10 per bag. This is also known as a bilateral contract in the law of contract. An example to exemplify this case (Carlil v Carbolic Smoke Ball). Ben’s reply on the 23rd February is acceptance. He replied accepting Andrew’s offer but adding that if he did not hear from Andrew, he would assume that the price included

delivery to his (Ben's) shop. On the 24th February, the acceptance to be considered as an counter-offer introducing the new requirements.

If in his reply to an offer, the offeree introduces a new term or varies the terms of the offer, then that reply cannot amount to an acceptance. Instead, the reply is treated as a " counter offer", which the original offeror is free to accept or reject. A counter-offer also amounts to a rejection of the original offer which cannot then be subsequently accepted. This can be seen in the case of (Hyde v Wrench). Based on the case given, on the 24th February, before Ben's letter arrived. Andrew heard a rumour that the price of potatoes was about to slump dramatically. Andrew immediately sent a fax to Ben, stating that the price includes delivery.

This is merely counter offering the previous offer. Therefore, when Ben also heard the news about the slump in the price of potatoes where upon he sent Andrew a text message stating ' decline your offer of pots' clearly shows that he varies the terms of the offer and it cannot amount to an acceptance. A counter-offer should be distinguished from a mere request for information. If A makes an offer on his standard document and B accepts on a document containing his conflicting standard terms, a contract will be made on B's terms if A acts upon B's communication, example by delivering goods.

This situation is known as the " battle of the forms". An example to this is the case of (Stevenson v Mc Lean). Wrapping up the case, in the case of Andrew v Ben, it is undoubtedly seen that counter-offer takes place and hence Ben's is competent to reject the delivery of Andrew's pricey potatoes. Question 3 On 24 February before 10 a. m, Andrew heard rumors about the price drop in potatoes market. He immediately send a fax to Ben stating that " price

include delivery”. This shows that offeror had sent a fax to offeree just to provide additional service without extra charges.

As Ben already accept the offer on 23 February, and the offer is now ? 10 per bag of potatoes including delivery fee with extra service provide. The contract is still accepted by Ben and just added additional services which show in fax “ price include delivery” as additional contract terms confirm that Andrew will provide ? 10 per bag of potatoes including delivery fee. Even if offeree does not want to accept additional terms from offerer, offeree is still in a previous contract position which is accepting the contract. On 24 February after 10 a. m, Ben had receive a fax from Andrew which stated that “ price include delivery”.

Ben accepts the offer of Andrew for ? 10 per bag of potatoes includes delivery, and so Ben posted a letter to confirm his acceptance of Andrew terms. When a letter is posted, the acceptance of the contract is consider accepted. According to Postal Acceptance Rules, once the letter is posted, it is consider as acceptance no matter it reached the offeror or not at that time (Duhaime, n. d.). There is a similar case of Postal Acceptance Rule: Household Fire Insurance Co. V. Grant. During 30 September 1874, Grant had applied for 100 shares from Household Fire and Carriage Accident Insurance Company Ltd.

The company had accepted Grant offer and allotted him 100 shares on 20 October 1874 which using letter posted the confirmation to Grant address. However, the letter does not reach Grant address which means Grant did not receive the acceptance letter from Household Fire Insurance Company. Grant though that his offer for 100 shares has not been approved. On March 1877, <https://assignbuster.com/law-case-study-wholesome-vegetables-ltd/>

Grant received a letter demanding payment upon the call of 100 shares. The jury also found that the letter of Grant allotment had been posted on 20 October 1874. For the above case *Fire Insurance Co. V.*

Grant, the court concluded that there was a valid contract based on the Postal Acceptance Rule. Because the rule for post is the acceptance is effective even if the letter did not arrive to the parties. The Postal Acceptance Rule is designed to prevent anyone try to opt out of the rule, once someone posted acceptance, the contract had come into effect. This rule can apply to Ben and Andrew case, which Ben posted a letter which confirms the acceptance of the contract terms between Andrew and Ben. Which means once the offeree posted the acceptance letter, the contract is considered bound to the offerer.

However, over the lunch time, Ben also heard news about the slump price in potatoes market. Ben immediately sends a text message stating that “decline your offer of pots” to Andrew. This means that after Ben knew about the slump price in potatoes, he send text message to Andrew to reject his offer. This text message is come secondly after the letter posted. According to Postal Acceptance Rule the counter acceptance or rejection will only be replace if the parties mention it from their contract, required receive by offeror in order to be treat as acceptance (Corrigan, 1997).

There is a similar case of replace acceptance “*Entores V. Miles Far East Corp*”. Entores and Miles Far East Corp are communicated trade agreements through Telex machine. Entores was base in London and send telex for purchase of copper from company Miles Far East Corp base in Amsterdam. Entores found out that Miles Far East Corp was not fulfilled the contract and

<https://assignbuster.com/law-case-study-wholesome-vegetables-ltd/>

sue the Corp for damages. Entores sue Miles Far East Corp for breach of contract in English law jurisdiction. It could prove that the contract was formed within the jurisdiction.

The court concluded that, when offer is made by telex or text message, the offeror must receive the acceptance. If the offeror is receiving the telex, it is considered contract is bound. This same goes to the letter of Ben post, even if the letter is not reached Andrew, the contract of acceptance is considered to be bound. The text message send by Ben afterward is decide by Andrew either to be accept or to be reject the rejection from Ben. The contract of Ben and Andrew is still ? 10 per bag of potatoes includes delivery is already accepted by Ben.

According to Ben and Andrew case, when the price of potatoes drop to ? 7 per bag, Andrew immediately counter offer to Ben include delivery, Ben accept Andrew terms before knowing the price drop in Potatoes. After that, Ben realise the price drop of potatoes, he reject the offer and refuse to accept delivery of Andrew pricey potatoes. If offeree refuses to accept the delivery of offerer pricey potatoes, offeree will be breaching the contract terms and fall under offer acceptance law case. As the contract of Ben and Andrew is ? 10 per bag of potatoes include delivery which is accepted by Ben.

The contract is still active between Ben and Andrew, once the contract is bind between offeror and offeree is not able to revoke. The following rejection by text message from Ben to Andrew is considered as another term of new offer contract which needed Andrew to be accepting. However, Andrew didn't reply the acceptance of Ben rejection. This means that, Ben
<https://assignbuster.com/law-case-study-wholesome-vegetables-ltd/>

have to stick to the first terms of ? 10 per bag of potatoes include delivery. If the case is bring to the court, mostly Andrew will win the case as according to the contract terms, Ben already accept the offer of ? 0 per bag of potatoes include delivery. The offeree (Ben) had accepted the offer at first and the counter rejection of offeree will not be taken in place if the offeror (Andrew) did not want to accept the rejection from offeree. If the offeror (Andrew) did not accept the counter rejection, it consider as Ben accept the offer and need to purchase ? 10 per bag of potatoes include delivery from Andrew for 100 bags. If Ben is still refuse to accept the Andrew offer, Ben will need to pay compensation to Andrew for breach of contract. Question 4

On 21st of February, Andrew is salesman at Wholesome Vegetables Ltd, who offered to sell 100 bags of potatoes at ? 10 to Ben, owner of retail shop. On 23rd of February, Ben replied accepting Andrew's offer but adding the delivery to his (Ben's) shop into the price if he did not hear from Andrew. It means the price of potatoes is ? 10 per bag included delivery. On 24th of February, Andrew heard that the price of potatoes is going to fall down dramatically and later Ben is received a fax from Andrew stated that " price include delivery". Before 10 a. m, Ben received Andrew's fax and he accepted the offer of Andrew for ? 0 per bag of potatoes included delivery. After Ben sent a fax to Andrew about his acceptance, both of them already formed a contract of law. The issue appeared in this case when Ben knew about a slump in the price of potatoes over lunch, he sent Andrew a text message " decline your offer of pots" and he was too late to revoke his acceptance of Andrew's term because they already made a contract after 10 a. m on 24th of February. The reason Ben wanted to revoke the contract

because the price of potatoes in contract that Ben have to pay for Andrew is more expensive than after a slump in the price.

Revocation is effective when it is communicated to the offeree before he or she has accepted the offer (Will and Weinstein, 2010) Revocation is one of termination of contract that has similar situation in this case: Byrne and Leon van Tienhoven [1880]. On 1st of October, Leon Van Tienhoven were defendants located in Cardiff, they sent a letter from their office to Byrne ; Co in New York offering to sell the plaintiffs 1, 000 boxes of tin plates. On 11th of October, the plaintiffs immediately telegraphed acceptance of offer after they received the letter and it is confirmed in a letter posted on 15th of October.

Meanwhile, on 8th of October, the defendants had written a letter to revoke their offer, and it came to plaintiffs on 20th of October. A binding contract was held, because revocation was only influenced by communication, however, the acceptance was telegraphed took effect as soon as it was sent. In this case, it took 9 days from 11th to 20th of October for plaintiffs to received revocation. On 11th of October, the contract had been made already at that time the second letter form defendants reached the plaintiffs.

The contract had been existed in this case when the claimants accepted the defendants' offer at that date. Lindley J, who was giving judgment for plaintiffs, stated that “ the extreme injustice and inconvenience which other conclusion would produce” (Cheshire, Fifoot ; Furmston'sLaw of contract, 1996). This issue happened because the letter of revocation had no communication to the offeree. According to Introduction to the law of

contract, the offer could be revoked by offeror without telling offeree, and the information may be conveyed by a reliable third party.

In the case of business, a letter from offeror to offeree on a normal working day should be treated as a communication even if unopened (Cheshire, Fifoot; Furmston's Law of contract, 1996). Held: In this particular case, Lindle J had no authority in fact given by the plaintiffs to defendants to inform a withdrawal of their offer by posting the letter, the fact is the letter of the 8th of October is to be treated as communicated to the plaintiffs on that day or any day before the 20th. Conclusion

In conclusion, Ben has a legal binding contract with Andrew. According to the case of Andrew v Ben, it is noticeably seen that the whole case is based on the law of contract. A contract may be defined as a legally binding agreement or, in the words of Sir Frederick Pollock: "A promise or set of promises which the law will enforce". The agreement will create rights and obligations that may be enforced in the courts. It is classified as a contract is deed and it is known as a bilateral contract.

This implies where a promise of one party is exchanged for a promise by the other. The exchange of promises is enough to render them both enforceable. Thus in a contract for the sale of goods, the buyer promises to pay the price and the seller promises to deliver the goods. The elements involved in the contract are agreement, consideration, intention to create legal relation and consent. A contract which possesses all these requirements is said to be valid. The absence of an essential element will render the contract void, voidable or unenforceable.

The terms of the contract is Ben accepting 100 bags of potatoes for ? 10 per bag of potatoes including delivery fee from Andrew. If let say offerer (Andrew) accept the rejection of offeree (Ben) text message, the acceptance contract will be terminated. However, if offerer (Andrew) still deciding to supply the stock of potatoes to offeree (Ben), Ben would have to purchase the 100 bags of potatoes with ? 10 per bag of potatoes including delivery fee. On the other hand, if offeree (Ben) refuses to accept the 100 bags of potatoes with ? 0 per bag including delivery, offerer (Andrew) can sue offeree (Ben) for breach of contract. The probability of claimant (Andrew) could win the case is high as defendant (Ben) has proven accept the acceptance contract terms. In our opinion, this case study is related to offer and acceptance rules. The oferee (Ben) should accept the 100 bags of potatoes for ? 10 per bag of potatoes including delivery fee as offerer (Andrew) has an evidence of acceptance contract binding between Ben and Andrew.