

Pinnel's case and promissory estoppel essay sample

Law



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Pinnel's Case was criticized of its unfairness judgment because Pinnel could go back on his promise that he had made to Cole.

There were 4 main criticisms responded to this rule which were stated by Hickling. The first criticism is that " The Rule Of Pinnel's Case" is a dictum. However, it had been used for 200 to 300 years until Denning J developed the promissory estoppel.

Next, it is also criticized as it illegally extended the doctrine of consideration from creating a contract to modifying a contract. The doctrine of consideration won't consider the past intention but " The Rule Of Pinnel's Case" won't consider the future intention.

However, in Khoury's & Yamouni's views, the court modified the doctrine of consideration and never revoked the rule in 200-300 years were because there was too much uncertainty in the future and the court was forced not to follow the doctrine.

Thirdly, it is criticized, as it will only produce ridiculous results if the promisor and promisee are left to put their own values on things, as consideration can be anything.

Lastly, " The Rule Of Pinnel's Case" is criticized, as it has no relation with commercial practice. It is because a lower value of thing can substitute the higher sum of payment. It is better for a creditor to receive a lower sum of money or to let the debtor facing bankruptcy.

In conclusion, although there are weaknesses in "The Rule In Pinnel's Case", it isn't completely useless because the judgment held at that time was forced by the environment and uncertainties.

Synopsis:

Consideration is one of the essentials that constituted a contract. It has to move from the promisee, however, it need not move to the promisor. A past consideration isn't acceptable. In the Pinnel's Case, the court held that Cole had to pay the outstanding sum to the Pinnel because of the lack of evidence. Since then, "The Rule In Pinnel 's Case" emerged and impacted on the doctrine of consideration.

To against the disadvantages of "The Rule In Pinnel 's Case", some exceptions were developed. It assisted the promisee and minimized the disadvantages that they might encounter. Promissory estoppel is one of the exceptions.

The doctrine of consideration was impacted by "The Rule In Pinnel 's Case". It was criticized for its existence because it can't be a good measure to distinguish the fairness and unfairness of a transaction. A consideration that can't be measured by dollar sign won't be considered as a good consideration for a promisor to keep his promise.

Denning J developed promissory estoppel to limit the traditional estoppel and to extend the doctrine. It is a good estoppel because it estopped the promisor from going back on his promise as long as the promisee has acted to his detriment on the promisor's promise. The cases of Foakes v Beer and <https://assignbuster.com/pinnels-case-and-promissory-estoppel-essay-sample/>

High Trees Case were both about the breach of promises of the promisors. Both the promisees had acted on their detriment. However, only the promisee in High Trees Case was protected because of the doctrine of promissory estoppel.

The subsequent development followed the decision of Denning J and promissory estoppel was that promissory estoppel could be used as a shield as long as a sword to enforce the promisor to enter into a contract if the promisee had acted his detriment. It can be used to defend the promisee.

Introduction:

Contract is a binding agreement between two or more parties. It is constituted by 6 essentials, which are legality, intention to create legal relation, consideration, acceptance, capacity, and offer. A contract can't be bound if any of these essentials is missing. It can be either in written or in oral form. However, oral contract will be more difficult to prove its existence in the future if go to court as compared to written contract.

Contract is bound for valuable benefit, which is called consideration.

Consideration is the essential that incurred in the following cases, which will be discussed further in the discussion section. Consideration is the essential that enters a party into a contract. It should be bargained between two parties and must have value for the consideration. Forbearance can also be a consideration, too. However, illegal acts that against the public policy can't be served as a consideration which is enforced in law. Eg: drug trafficking.

In this essay I will attempt to give explanations on the "The Rule Of Pinnel's Case", promissory estoppel, and how it impacted upon the doctrine of consideration. There was a pro and con between "The Rule Of Pinnel's Case" and doctrine of consideration. The judgment of Pinnel's Case had changed the fate of the doctrine of consideration. It was because consideration was part of the factor that caused Cole had to pay the remaining sum of the debt to Pinnel.

Next, I will also explain the judgment and conclusion of Denning J in High Trees Case solved the problems arising from the Rule in Pinnel 's Case. Denning J developed promissory estoppel when he judged the High Trees Case. The emergence of promissory estoppel had changed the judgment of the cases after High Trees Case. Lastly, I will discuss the relevant subsequent developments after the rising of promissory estoppel. These relevant developments were the elevation of promissory estoppel to be a shield as well as a sword.

Discussion:

'Pinnel 's case' is an old and out-dated case. Pinnel sued Cole for paying the debt of 2s 6d on 1 October 1600 instead of the original amount of 10s that he had borrowed from Pinnel which due on 11 November 1600.

The court held that a lesser sum of payment couldn't be the satisfaction of a greater sum. However, a lesser sum of payment with a gift of horse, hawk, etc would be a good satisfaction because the gift might be more valuable to the plaintiff than the money, or otherwise the plaintiff would not had

accepted it in satisfaction. This is known as "The Rule In Pinnel's Case" and it has been applied ever since.

Therefore, although Pinnel promised Cole that he needed no to pay the outstanding sum, he could still go back on his promise and get back the outstanding sum because no consideration for Pinnel to forgone the money. However, such situation is very unfair to the debtor because the creditor can back on his promises anytime.

Therefore, basically four exceptions were developed to assist the debtor and to minimize the disadvantages that the debtor might encounter. The first exception to safeguard debtor is the prepayment of a smaller sum. The debtor won't be bound to the outstanding sum if it's the creditor's request.

The third exception is that if a debtor is bankrupt, no creditors can claim the balance of debt from him or his property will be divided among his creditors according to proportion.

The third exception is the defense of scam on a third party can be raised (see the case of *Hirachand Punamchand v Temple*).

Lastly, promissory estoppel can be raised. Promissory estoppel was developed by Denning J to prevent the promisor from going back on his promise from asserting the existing legal rights when he promised his promisee regarding present or future conduct. However, it can only be used as a shield but not a sword in UK (See *Central London Property Trust Ltd v High Trees House Pty Ltd.*) while it can be used either a shield or a sword in Australia (See *Walton Stores (Interstate) Ltd v Maher*). Promissory estoppel
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can't be used to create a new contract. It is only used to discharge or to vary an existing contract.

Foakes v Beer

Beer borrowed money from Foakes. Beer was unable to pay the full amount to Foakes before the due date. Therefore, Foakes agreed to let Beer to pay back his debt by installment. Later, Foakes sued Beer for the interest money on the installment after he finished paying the installments.

The court then held that Beer had to pay the interest to Foakes because she could earn interest if she deposited the money into the bank instead of lent it to Beer. It was obviously very unfair to Beer. However, Beer couldn't apply the estoppel because the traditional estoppel could only be applied existing facts but not future intention.

Central London Property Trust v High Trees House Pty Ltd.

Central London leased a block of flat to High Trees for 2, 500 pounds and then High Tree earned profit by subletting the flats to individual tenants. However, less people wanted to live in the flat because of the WWII. Thus, Central London halved the gross rental payment to High Trees but never specified the time ended at 1940. After the war was ceased at 1945, the flats were fully occupied. Central London sued High Trees for the rental at the original rate for the second half quarter of 1945.

The court held that Central London could claim for the rental because it claimed the rental of the last two quarters after the war had ceased and the flats were fully occupied.

Cole had to pay the outstanding sum to Pinnel was because there was no consideration for Pinnel to forgone the money. A lot of people criticized on the doctrine of consideration as whether it should be existed. ' Pinnel ' s case' had impacted upon the doctrine of consideration. The doctrine of consideration is seen as a means of distinguishing between fair and unfair transaction, which is thought to ensure that it enhances the economic efficiency. However, not all considerations can be measured by dollar. Besides, it also limits the involvement of the state in deliberate activities. This doctrine doesn't bind both parties into another contract. It is defined as the price (can be positive value, benefit, or negative value), which moves from the promisee. It can only be the consideration of present and future but not the consideration of the past. If there is no good consideration for the promisor to keep his promise to promisee, he needs no to keep the promise. Thus, it means that the promisor can go back on his promises anytime. Therefore, this doctrine is criticized as it can be and should be abolished since it can't function fairly and will bring detriment upon the promisee.

From the High Trees Case, Denning J had provided the solution to " The Rule Of Pinnel's Case". He limited the estoppel and developed a solution. It is promissory estoppel. Denning J stated that if the Central London claimed for full payment between 1940 and 1945 then they would have failed. They

would have been estopped from asserting their strict legal right to payment in full by their promise to accept the lesser sum. The new estoppel would be taken if the promisee would suffer detriment once the promisor breached the contract. If the promissory estoppel was taken in the case of *Foakes v Beer*, then Beer would need not to pay the interest to Foakes because she would be estopped from doing so.

However, promissory estoppel can also be applied even though there is no contract existed between promisor and promisee, as long as the promisee is relied on the promise, and, the promisee can get detriment if a party refused to enter into a contract when the promisor has promised that they will enter into a contract. It only shows its effectiveness when the promisor offends good conscience. It can be used to defense the promisee. Therefore, promissory estoppel can be used as a shield as well as a sword, too.

Conclusion:

"The Rule in Pinnel's Case" is a complicated and mean rule. It can't be seen as a fair rule because promisee will suffer detriment under that rule.

The judge held that the lesser sum couldn't be the satisfaction of the whole unless it is accomplished with a gift, which might be considered as a replacement of the outstanding sum to the promisor.

Therefore, this rule most probably tends to protect the promisors than the promisee. That is why the promisor can go back on their promises at that time. This is the loophole in the rule. It threatened the promisee and was a

disadvantage to the promisee. A lot of cases were judged unfairly under this rule.

In the case of *Foakes v Beer*, Beer had to suffer the detriment by paying the interest of installment to Foakes. The judgment at that time only concerned the past, present intention and the consideration that can only be measured by dollar and beneficial to the promisor. They neglected the detriment that might be suffered by the promisee.

On another hand, I agree to the judgment in the High Trees Case. Although the promisor only mentioned that half of the rental will be deducted and never indicated the expiry date for such offering, they could claim back the original rental from High Trees. The act of promisor to claim back the original rental might be unfair. However, it was an ordinary man's thinking. Central London could claim back the money because the rental they claimed was after the war and, moreover, the flats were fully occupied. It might be an advantage to High Trees if the rental that they need to pay to the Central London was halved but the flats they sublet to others was fully occupied. Thus, it would become the disadvantage of the Central London, again. Therefore, the judgment in the High Trees Case is fair.

The development of estoppel into promissory estoppel was an important improvement in law. The promissory estoppel also can be used as a shield and a sword. The promisee not only can use promissory estoppel to estop the promisor from going back on his promises but also can enforce the promisor to enter into a contract. Promissory estoppel had solved the

troubles that had been following the judges for many years. Therefore, the existence of promissory estoppel is very important.

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