

COMMERCIAL LAW

CASES

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Robinson v Graves (1935) 1 KB 579

- P was portrait painter
- D engaged P to pain portrait of his wife
- P commenced painting
- D subsequently repudiated contract
- P sued for breach of *contract for sale of goods*
- Held —
 - oral contract for sale of goods (P can't enforce because not in writing)
 - on appeal — contract for the supply of **services** — includes skill

- '... substance of the matter was an agreement for the exercise of skill and it was only incidental that some materials would have to pass from the artist to the gentleman who *commissioned* the portrait' (579)

Deta Nominees v Viscount [1979] VR 167

- D had oral contract with V to manufacture a die for plastic extrusion
- D supplied dimensions
- D was to eventually obtain property in the die
- V breached
- D sued for specific performance
- Issue — contract for sale of goods (not enforceable if oral) or work and materials?
- Held —
 - Fullagar J criticised the 'substance of the contract' test
 - sale of goods
 - subject matter of contract was sale and delivery of chattel

Aristoc Industries v Werham Builders (1965) NSW 581

- S builder at Prince Alfred Hospital
- S sub-contracted to A for lecture seats
- A manufactured and delivered seats
 - could not install them because theatre not ready
- S assigned its contract to Werham
- A wanted seats back — W refused
- Held —
 - contract for work and materials
 - property remained with A
 - "what was intended (by the parties under the contract) was not the supply of goods with a collateral or subordinate agreement for their installation but a single agreement to supply, deliver and install the materials in question"
 - however, method of installation was quite simple and inexpensive (anyone could have done it — maybe could have just been contract for goods?) — it is not a decision that is easy to understand though it is fair