

Contracts

Case Notes

Contracts - Cases

Offer

Definition of an offer

Case name:	Clifton v Palumbo [1944]
Facts:	Letter presented in regards to sale of land Stipulated price but agreed that "a reasonable time shall be granted for examination and consideration of all the details necessary for preparation of Schedule of Completion" Changed mind about price, sought declaration that there was no contract
Issue/s:	Did the letter constitute a legally binding offer?
Reasoning:	No - given the defendant still had data to collect, it was unlikely that the parties intended to be bound, as there were further terms to agree upon
Principle/test:	An offer can be defined as an indication by one person to another of his/her intention to be bound by the terms set forth without further negotiation.

Bilateral vs unilateral contracts

Case name:	Carlill v Carbolic Smoke Ball Company [1893]
Facts:	Carbolic Smoke Ball Company advertised that a \$1000 reward would be paid to any person who contracted influenza after having used the smoke ball Declared that \$1000 had been deposited in an account to demonstrate their sincerity Mrs Carlill bought the smoke ball and still caught influenza.
Issue/s:	Was there a contract between Mrs Carlill & the smoke ball company?
Reasoning:	There existed a unilateral contract between the parties: an offer made to the world that is accepted by somebody performing the condition Notification of acceptance need not precede performance when acceptance is contemporaneous with performance
Principle/test:	A unilateral contract will be found where an offer is made that is a promise to be accepted by the performing of a specified act (performance = consideration and acceptance)

Invitations to treat

Case name:	Pharmaceutical Society of Great Britain v Boots [1953]
Facts:	Boots Chemists sold products in a self-service fashion - products on shelf, customers selected products and presented to cashier It was an offence to sell poisons without the supervision of a pharmacist
Issue/s:	At which point in the process did the offer and acceptance (and therefore the sale) take place?
Reasoning:	The sale was when the binding contract came into existence A contract was not formed at the point when the product was picked up from the shelf, but rather when the product was taken to the pharmacist for payment
Principle/test:	A self-service system (i.e. products on display) will amount to an invitation to treat An invitation to treat involves a seller making a request of customers to make offers or to engage in negotiations with a sale being the end result If a seller has only issued an invitation to treat, then the customer's reply is an offer which can be accepted or rejected

Revocation of offers

Case name:	Dickinson v Dodds (1876)
Facts:	Dodds made an offer for the sale of land that was to expire two days later at 9:00am The day before the expiration, Dickinson was told that Dodds had agreed to sell the property to a third party and had already signed the contract. That evening, Dickinson delivered a formal letter of acceptance to Dodds' home, where it was given to his mother-in-law (although she forgot to give it to him)
Issue/s:	Was Dodds able to revoke his offer prior to Dickinson's acceptance? Can revocation of an offer be communicated through a third party?
Reasoning:	The offer could be withdrawn at any time prior to acceptance The withdrawal of the offer had been communicated to Dickinson through the third party and thus was revoked prior to Dickinson accepting.
Principle/test:	An offer can be revoked at any point prior to acceptance Withdrawal of an offer does not need to be express - it can be inferred from conduct or communicated through a third party Until a party has accepted, no one is legally bound

Acceptance

Communication of offer required for acceptance

Case name:	Felthouse v Bindley (1862)
Facts:	Discussion between uncle and nephew surrounding purchase of a horse During written negotiations pertaining to sale price, uncle wrote "If I hear no more about it, I consider the horse is mine at \$30" The horse was mistakenly sold at auction
Issue/s:	Did the plaintiff (uncle) own the horse or did the nephew still own it?
Reasoning:	The title to the horse had not passed under a valid contract - it was still owned by the nephew by virtue of him having not accepted the offer as to the price of the horse The letter from Felthouse suggesting that acceptance of the offer was to be by silence was not valid acceptance
Principle/test:	Acceptance of an offer must be communicated Silence cannot amount to acceptance

Knowledge of offer required for acceptance

Case name:	R v Clarke (1927)
Facts:	Clarke in trouble for crime, had given evidence to the police which ultimately led to the conviction of someone else Clarke then claimed the reward that was being offered by police However, when Clarke gave the information he wasn't really thinking about the reward - his principal concern was to exonerate himself and avoid being charged
Issue/s:	Was Clarke entitled to the reward offered?
Reasoning:	Clarke had not been acting in reliance on the offer, but to secure his own release from custody There was no acceptance of the offer, and therefore no contract
Principle/test:	In order to accept an offer, the offeree must have knowledge of, and be acting pursuant to, the offer - that is, the act must be performed with the intent to activate the offer made