
TIMELINE OF K

1. Has the K been formed? All elements satisfied
 2. Checking that it's bind - no vitiating factors in formatio
 3. What performance is required? What are the terms of the Contract? What do they mean
 4. Has the performance been rendered? Has the contract been performed? Discharged? Breached
- If breached, what is the remedy?

Elements for Contract Formation.

1. offer and acceptance
3. Sufficiently complete and certain in terms
4. ITELR
5. Consideration

OFFER

A willingness to be bound by specific terms, if the other party is prepared to accept those terms that is assessed objectively based on – words, conduct, and circumstances – **Carlil**

How a R/P would interpret wording looking at ordinary meaning, 'may' meant offer not binding – **Gibson v Manchester**

Offer must be a proposal that is able to be rejected or accepted – communication of 'command' or 'promptly request' may not be regarded as an offer – **Brambles Holdings v Bathurst**

INVITATIONS TO TREAT – NEG

An invitation to treat – invites further negotiation or offers

Shop displays – brochure – catalogues – newspapers – not offers, were standard advertisements – **Partridge v Crittendon**

Goods on display typically not offer – **Pharmaceutical Society v Boots Cash Chemist**

- Exception –

Where wording in advertisement was a plain promise meant to be taken seriously – it is an offer – **Carlil**

Where ads outlines what who qualifies for the purchase – there is a willingness to be bound and is an offer – **Leftkowitz v Great Minneapolis**

UNILATTEAL OFFER

Occurs when one party offers to be bound to a conditional promise

e.g. offer of \$45 for return of lost dog

Offer is accepted by performing the act – and performance is all that is required –

There must be a relation of quid pro quo between the offeree's act and the offeror promise – test is whether the offeror has expressly or impliedly requested the doing of the act by the offeree – C/A held was a request – cant hold all statutory bodies to all requests – **Australia Woollen Mills Pty v Commonwealth**

AUCTIONS

Auctioneer's request for bids is a invitation to treat and bidding was an offer which could be withdrawn at any time before acceptance by the auctioneer's hammer –

And bidder is entitled to withdraw bid before it is accepted – **Payne v Cave**

No contractual claim can arise if auction is cancelled – **Harris v Nickerson**

Holding action without reserve did not constitute an offer and didn't bind the vendor to sell to the highest bidder - **AGG Ltd v Mc Whirter 1977**

“Without reserve” was an offer of a unilateral contract as D bound himself to sell to the highest bidder – **Warlow v Harrison (1859)**

TENDERS

At the time of advertising properties as an invitation to treat the council was making or expressing a willingness to be bound by stating the sale by ballot and offer was accepted when placing a bid – therefore cancelling the ballot was a breach – **Markholm Construction Co Ltd v Wellington CC**

Invitation to submit tenders amounted to an offer capable of being accepted by submission of the highest bid and when the highest bid was accepted contract was completed – **Harvela Investments Royal Trust**

TICKET CASES

A ticket did not record the terms of an agreement but rather the terms of an offer and was accepted by conduct – **MacRobertson Miller Airlines Services v Commissioner of State Taxation**

DURATION OF OFFER

Offeree could not accept the offeror's death where the offeree knew of the death prior to the accepting the offer – **Fong v Chili**

TERMINATION OF OFFER
