

Powell v/s Lee (1908 24 TLR 606)

The plaintiff Powell applied for the post of headmaster and his application was accepted by the School Board. Before the formal appointment, one of the Board members had informed Powell of the ~~des~~ decision which was later rescinded (撤回) by the Board. Powell sued the School for breach of contract.

The court held that the acceptance was not communicated by someone authorized by the School Board and thus there was no valid contract.

Lalman Shukla V/s Gauri Dutt  
(1918) 11 All L.J. 489

Defendant's nephew has absconded from his home. He sent his servant to trace his missing nephew. When the servant had left, Gauri then announced that anybody who has discovered the missing boy would be given the reward of Rs 501. The servant discovered the missing boy without knowing the reward. When the servant came to know about the reward, he asked for the same from defendant. Defendant refused to give the reward. The servant brought an action against defendant in the court of law to recover the same.

But the court held that when the servant discovered the boy, he was not aware of the reward. Thus the offer was not communicated to him.

Hence he is not liable to get the reward from defendant.

## Balfour v/s Balfour (1919 2 K.B. 571)

Mr. Balfour is the Defendant and Mrs. Balfour is the Plaintiff. The couple lived in Ceylon (Now Sri Lanka) and visited England on a vacation. The plaintiff remained in England for medical treatment. The defendant has agreed to send her a specific amount of money each month until she could return. The defendant failed to honour the promise. Mrs. Balfour sued for restitution of her conjugal rights (तारेक विवाह का अधार) and for alimony equal to the amount her husband had agreed to send. The lower court entered judgment in favour of the plaintiff and held that the defendant's promise to send money was enforceable. The court held that Mrs. Balfour's consent was sufficient consideration to render the contract enforceable and the defendant appealed. The Higher Court held that the agreement between husband and wife is of social nature and cannot be enforceable by law. Hence Mr. Balfour is not liable for honouring the agreement. By this case law, all social agreements are not enforceable by the law. This judgment is considered a Landmark judgment.

Carlill v/s Carbolic Smoke Ball Co.

[1893 (1) A.B. 256]

The defendant company advertised that a reward of £ 100 to any person who would suffer from influenza after using the medicine (Smoke balls) made by the company according to the printed directions. In order to show their sincerity, they also deposited £ 1000 in a Bank for the same purpose. One lady, Mrs. Carlill (the plaintiff), used the medicine according to the printed directions of the company but suffered from influenza. She filed a suit to claim the reward. It was held that she was entitled to claim the reward. The court pointed out that in advertisement cases, an offer may be made to the whole world but it becomes a promise only when it is accepted by an ascertained person.

In the same case it was also argued that there was no contract between the parties because notification of acceptance had not been communicated to the company. But the court rejected this argument and held, in cases where rewards are

offered for information or for the recovery of lost property, notification of acceptance was not necessary.

It was further urged by the company that the offer of the reward of £100 was a casual offer, a mere (~~HTA~~) advertisement and it was thought that no reasonable man took any serious note of it. But the court rejected this contention and pointed out that the statement regarding deposition of £1000 with the Alliance Bank for payment of rewards to those who suffered from influenza even after using the smoke ball according to printed directions for a certain period clearly showed company's "sincerity in the matter".

- The general offer is not an invitation to offer.

Harvey v/s Facey (1893) A.C. 552

The plaintiffs telegraphed to the defendants, writing, "Will you sell us Bumper Hall Pen? Telegraph lowest cash price." The defendants replied, also by a telegram, "Lowest price for Pen, £ 900". The plaintiffs immediately sent their last telegram stating, "We agree to buy Pen for £ 900 asked by you". The defendants, however, refused to sell the plot of land at that price. The court held that the defendants gave only the lowest price and did not express their willingness to sell the plot of the land. The offer was made by plaintiff in his last telegram to the defendant which was never accepted by the defendant.

- This can just be considered as an invitation to offer.

Philip & Co. v/s Kno blanch [ (1907) S.C. 994 ]

A merchant (the plaintiff) wrote to a firm of oil millers (the defendant), "I am offering today plate linseed for January - February shipment to Lith and have pleasure in quoting you 100 tons at usual plate terms. I shall glad to hear if you will buy and await reply." The oil miller telegraphed the next day: "Accept," and confirmed it by letter. It was held that the letter by the plaintiff has all the characteristics of a valid offer and contract was concluded by the defendant by the telegram. Thus it is an actual offer.

Payne v/s Cave (1789) 3 TR 148

Mr. Cave was made the highest bid for the good in an auction. But then, Mr. Cave changed his mind and he withdrew his bid before the auctioneer brought down his hammer.

It was held that Mr. Cave, the defendant, was not bound to purchase the goods. His bid amounted to an offer which he was entitled to withdraw at any time before the auctioneer signified acceptance by knocking down the hammer.

Canning v/s Farquhar (1998) 16 A.B.D. 727

Canning filled "Proposal form" and applied for life assurance with the company. The company wrote that the proposal is accepted and told Canning that no insurance contract take place until the first premium was paid. Before the premium was paid, Canning fell over a cliff (~~the~~) and died. The company refused to accept the premium from Canning's agent. The court held that the so-called proposal was initial negotiation, while acceptance by the insurance company was the actual offer which was not accepted by Canning by paying the premium. Hence the company was under no obligation to pay the sum insured because the risk had substantially changed between the time of the original proposal and the tendering of the premium.

Mohamed Sultan Vs Clive Insurance Co. 56 All. 726

The plaintiff entered into a contract of insurance against theft of his goods and furniture. He signed the proposal and paid the premium for the year. The insurance company acknowledged the receipt of premium and informed to the plaintiff than within 30 days policy shall be issued. Actually, no policy was issued. There was a theft in plaintiff's house within one year from taking the policy. The insurance company rejected the claim of compensation from the plaintiff. Court held that the contract is complete and the insurance company is liable for paying the compensation.

# Dickinson v/s Dodds (1876) 2 Ch D 463

## Facts:

- Mr. Dodds, on Wednesday, (10<sup>th</sup> June, 1874), wrote to Mr. Dickinson, with an offer to sell his house to him for an amount of £800. This offer was expressed to be left open until Friday (12<sup>th</sup> June), before 9 o'clock a.m.
- On Thursday morning, (11<sup>th</sup> June) Mr. Dickinson chose to accept the offer, yet didn't disclose to Dodds immediately because he thought that he had time until 9 a.m. on Friday.
- But, in afternoon of 11<sup>th</sup> June, Mr. Dickinson, was informed by a person named Mr. Berry [agent of Mr. Dickinson] that Dodds had agreed to sell his property to another person called Thomas Allan.
- After the incident of afternoon, on the evening of Thursday, Mr. Dickinson left a formal acceptance to buy the house in writing with the mother-in-law of Dodds.
- Mother-in-law forgot to give it to Dodds and thus, he never got the notice about the acceptance from Mr. Dickinson side.
- Mr. Berry found Dodds on Friday morning at a railway station. After meeting Dodds he handed him a duplicate copy of the acceptance by the Mr. Dickinson, but he was informed by Dodds that he was too late to accept the offer. Mr. Dickinson after few minutes himself found Dodds, but he was again notified that it is too late, because he had already sold the property to Mr. Thomas Allan on Thursday, for £800, and has also received a deposit of £40 from him.
- Thus after all this scene Mr. Dickinson bought an action of specific performance against Mr. Dodds.

## Issues Raised:

- Whether Mr. Dodds' promise to keep the offer open until the 9 a.m. of 12<sup>th</sup> June was a binding contract?
- Was the letter just an offer or something more?
- Whether Mr. Dodds was allowed to revoke the offer and sell the house to a third party?

## Ratio:

- The written opinions (from Mellish and James) agree that the letter was just an offer and that's it. It is clear in law that an offer doesn't add up to an agreement.
- At the point when an offer has been made, the offeror is allowed to revoke or accept it as the offeree is to accept or dismiss it. Despite the fact that it was said that the offer was to stay open until Friday, this was not binding on Dodds.
- There should be a "meeting of the minds" at the time the contract is formed, and this clearly couldn't happen here (as Dodds had already agreed to sell the property to the third party), so there could be no contract.
- An offeror is allowed to withdraw their proposal anytime until the offeree has accepted it, so as long as the offeree has not given any sort of consideration.
- An offeree should know about revocation, however explicit communication isn't needed.

- There is no rule that says that there should be an express withdrawal of the offer.
- The promise was not binding; whenever before a complete acceptance by Mr. Dickinson, Dodds was allowed to do anything he desired.
- When there is an open offer that has not yet been accepted by the offeree, there is no binding contract, and the offeror can make similar proposal to different parties.
- For example, when a person who has made an offer dies before the acceptance of that offer, it is not possible that it can be accepted afterwards. So, when once the person to whom the offer has been made knows that the property has been sold to another person, it is too late for him to accept the offer.

Held:

The court held that the statement made by Mr. Dodds was nothing more than a promise; there was no binding contract formed. He had communicated an offer for buying his house to the Dickinson and this offer can be revoked any time before there is acceptance. There was no deposit to change this situation. Thus, as there was no obligation to keep the offer open, there could be no 'meeting of the minds' between the parties. In addition, the court stated that a communication by a friend or other party that an offer had been withdrawn was valid and would be treated as if it came from the person themselves.

# Brogden v/s Metropolitan Railway Co.

[ 1877, 2 App Cas 666 ]

Brogden, were suppliers of coal to the defendant, Metropolitan Railway. They completed business dealings regarding the coal frequently for a number of years, on an informal basis. There was no written contract between the complainant and the defendant.

However, the parties decided that it would be best for a formal contract to be written for their future business dealings. The metropolitan railway made a draft contract and sent this to Brogden to review. Brogden made some changes to this draft and filled in some blanks that were left. Brogden sent this amended document back to the defendant. MR (Metropolitan Railway) filed this document, but they never communicated their acceptance of this amended contract to Brogden. During this time, business deals continued and Brogden continued to supply coal to the MR. When a dispute arose, the issue, in this case, was whether there was a contract between Brogden and the MR and if the written agreement they had was valid.

The court held that there was a valid contract between suppliers, Brogden, and the MR. The draft contract that was amended constituted a counter offer, which was accepted by the conduct of the parties. The prices agreed in the draft contract were paid and coal was delivered. Although there had been no communication of acceptance, performing the contract without any objections was enough. It was the acceptance by the conduct.

# Rust v/s Abbey Life Insurance Co. (1979)

## Facts:

- The claimant applied for a bond.
- Upon asking for the bond to be refunded, it was claimed that there had been no contract.

## Issue:

- Could there be acceptance by conduct, with no official acceptance.

## Decision:

- Yes, there can be a contract made by conduct.

## Reasoning:

- It was an inevitable inference from the parties' conduct.

## Vitol v/s Norelf (1996)

### Facts:

- Vitol wished to purchase propane from Norelf.
- The cargo was not going to be shipped in time, therefore, prior to the completion of loading of a ship, cancelled (repudiated) the contract.
- Norelf did not expressly accepted the repudiation, but sold the propane on.

### Issue:

- Had the breach accepted?

### Decision :

- Yes

### Reasoning :

- Acceptance need not take a particular form.

# Felthouse v/s Bindley (1862, EWHC CP J35)

Felthouse, had a conversation with his nephew, about buying his horse. After their discussion, Felthouse replied to his nephew by letter stating that if he didn't hear any more from his nephew concerning the horse, he would consider acceptance of the offer done and he would own the horse. His nephew did not reply to this letter and was busy at auctions. The defendant, Mr. Bindley, ran the auctions and the nephew advised him not to sell the horse. However, by accident, he ended up selling the horse to someone else. Felthouse sued Mr. Bindley in the tort of conversion. The court held that there was no contract for the horse between the complainant and his nephew. There had not been an acceptance of the offer; silence did not amount to acceptance and an obligation cannot be imposed by another. Any acceptance of an offer must be communicated clearly. Although the nephew had intended to sell the horse to Felthouse and showed this interest, there was no contract of sale. Thus, the nephew's failure to respond to the complainant did not amount to an acceptance of his offer.