COURSE: GNS 425 - LAW OF CONTRACT

CLASS: HND 2 COMPUTER SCIENCE

CASE: AMADI V POOL HOUSE GROUP (NIGERIA) LTD

GROUP 3

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CASE CITATION

K. Amadi VS Pool House Group (Nigeria) Ltd And Nigerian Pools Company Limited, High Court Lagos, 31st October 1966, Suit No. LD/634/65., 3PLR/1966/29 (HC-L).

DECIDING COURT

High court, Lagos.

BEFORE

Omololu, J.

BETWEEN

K. AMADI

AND

POOL HOUSE GROUP (NIGERIA) LTD

NIGERIAN POOLS COMPANY LIMITED

MAIN ISSUES

CIVIL ACTION

CASE SUMMARY

In the case of Amadi vs Pool House Group & Nigerian Pools co, it was decided that the defendant was under no legal liability towards the plaintiff. This is because in the pool agreement, there was an honor clause that excluded litigation and legal enforceability. This is regardless of the fact that the plaintiff allegedly won some money.

In Amadi V Pool House Group & Nigerian Pools Co. The defendant denied the receipt of the coupon which the plaintiff had won a prize by pointing to the defendant of a clause stating that the agreement is only binding in honour. The court upholded the effectiveness of the clause.

COURT DECISION

Plaintiffs claim against the first and second defendants is dismissed. The defendants are both entitled to the costs of this action which I will now proceed to assess and action is dismissed.

REPRESENTATION

Agwu – for the Plaintiff

Amazu – for the 1st Defendants

Adeniran Ogunsanya – for the 2nd Defendants

EDITORS

[Sam Eleanya, Agboola Omolola Oluwafolakemi, Vincent Eleanya Kalu, Eleanya Ugochi Vine]

MAIN JUDGEMENT

OMOLOLU, J.:–

In this case the plaintiff staked the sum of £1-16s-Od in a football pool ticket which he delivered to the 1st defendants for transmission to the 2nd defendants on the 30th January, 1965. The results of the game were to be delivered on the 3rd of February, 1965. The plaintiff discovered that according to the coupon which he had staked he had had a correct entry and was entitled to the first dividend of ,£50,009-12s-Od. He claimed this amount from the 2nd defendants but the latter denied receiving this coupon. Whereupon the plaintiff claimed:-

(1) the amount which he would have won had he been declared the winner of the first dividend, that is £50,009 12s- Od; and

(2) the amount of £1-16s-Od which he expended on the coupon. These claims were by way of special damages.

The averments in the defence showed:-

(1) that the action was not maintainable as the plaintiff was debarred from bringing it into Court under the Rules and Conditions which govern the contract;

(2) that the 2nd defendants denied having received the coupon even after a thorough search had been made for it under the suspension of a firm of independent accountants;

The case of the plaintiff briefly is that believing that the coupon he had staked won the dividend prize of £50,009-12s-Od as published in the Sunday Times of January 31, 1965, he

sent a telegram to the 2nd defendants and not getting any reply he approached the first defendants whose servants agreed that they had received his coupon and that they had forwarded it to the 2nd defendants in their normal way of business. Not receiving any satisfaction from the defendants, plaintiff reported to the police whose investigations confirmed that the coupon had indeed been received by the first defendants and despatched to the second defendants.

On 10th February, 1965, the second defendants wrote a letter to the plaintiff denying the receipt of the plaintiff's coupon and disclaiming liability. Consequently the plaintiff brought this action for the prize money of £50,009-12s-Od and the stake money of £1-lbs-Od.

The first defendants' defence mainly is that they had discharged their duty as collectors of the coupon and this indeed is borne out by the evidence of the plaintiffs witnesses in that having received the plaintiffs coupon first defendants have despatched it to the second defendants.

The second defendants' defence apart from putting the plaintiff to the proof of the various issues contained in his averments is that under their Rules and Conditions the transaction is binding in honour only and could create no legal relationship and as such is not enforceable in a court of law (Rule 2) and, in addition that the plaintiff's coupon fell within its disqualification set out in Rule 14 (f) of their Rules and Conditions because his coupon was missing and could not be traced after a diligent search by independent accountant.

It is important first to examine the legal point raised by the second defendants as, if upheld, this would dispose of the claim.

Now the two rules on which the second defendants rely are contained in the pamphlet titled Rules and Conditions for 1964-65 Season and I will quote the two rules in full as they are so important:-

"2. It is a basic condition of the sending in and the acceptance of every coupon, that it is intended and agreed that the conduct of the Pools and everything done in connection therewith and all arrangements relating thereto (whether mentioned in these Rules or to be implied) and that any coupon and any agreement or transaction entered into, or payment made by, or under it, shall not be attended by, or give rise to any legal relationship, rights duties or consequences whatsoever, or be legally enforceable, or the subject of litigation, but all such arrangements, agreements, and transactions are binding in honour only."

"14. DISQUALIFICATIONS. A coupon (or the particular forecast concerned) is disqualified and no claim will be entertained in respect of it, or of the stake money relating to it, if in fact or in the opinion of the Accountants:

(f) From whatever cause any forecasts therein are torn off or damaged or it is an altered coupon, which from whatever cause is missing and cannot be traced after search or does not reach us, and proof of, delivery to Agent(s) will not be accepted as proof of delivery to us."

Now what is the effect of these rules and how have the courts interpreted them? Learned counsel for the second defendants, Chief Adeniran Ogunsanya cited several authorities in support of his submissions and it is sufficient to examine only a few. In the case of Rose & Frank Company v. J. R. Crompton and Cross Limited 1925 Appeal Case at page 445, the House of Lords decided that it is quite possible for an agreement to be made between two parties which could be binding in honour only and which should not be subjected to the legal jurisdiction of the Law Courts. This case has been followed in subsequent cases on the subject of Pools betting.

In the case of Lee v. Sherman's Pools Limited 1951 Weekly Notes at page 70, the Court of Appeal held that a Football Pool Staker who alleged that the coupon he staked had won the sum of £1,270-13s-Od as prize money in a pool known as "Treble Chance" and that the Football Pool promoters refused to pay him the prize money, the action was not maintainable because the rules governing the entry which were worded substantially as those in the case before me now, had stipulated that the transaction was binding in honour only. Asquith, L.J. in that case said-

"that he would have thought it quite unarguable that a person who signed that coupon was not bound by the condition there set out. All the materials necessary to the trial of the action were thus before the Court of Appeal. He felt so little doubt that there was no arguable point for decision that he was of opinion that this was one of those unusual cases in which the statement of claim should be struck out and the action dismissed in limine."

The same point arose in the case of Jones v. Vernon Pools Limited reported in 1938 2 All England Reports at page 626 when the court was called upon to interpret the legality of a rule which in wording is substantially the same as in rule 2 of the second defendants' Rules and Conditions. After setting out the rule in full, Atkinson, J. said at page 630 of that Report:

"That is a clause which seems to me to express in the fullest and clearest way that everything that follows in these rules is subject to that basic or overriding condition that everything that is promised, every statement made with relation to what a person sending the coupon may expect, or may be entitled to, is governed by that clause.

If it means what I think that they intend it to mean, and what certainly everybody who sent a coupon and who took the trouble to read it would understand, it means that they all trusted to the defendants' honour, and to the care they took, and that they fully understood that there should be no claim possible in respect of the transactions."

More recently in the case of Appleson v. Littlewood Limited reported in 1939 1 All England Reports at page 464 the two authorities I have quoted above were followed at the Court of Appeal when the same point came for determination. At page 467 Scott, L.J. said

"If there be any rule of public policy to which reference can be made, the rule which I think takes precedence of all others in a case like this is that people must be bound by the arrangements which they make when these arrangements are expressed in quite clear language. In the first place, this arrangement was one which in quite clear language was an arrangement in honour only, with no legal attributes at all, and, secondly, even if that conclusion were not enough to cause this court to dismiss the appeal, I think that this term to which the plaintiff agreed with his eyes open, and which I have just quoted, allowing for disqualification by the accountants of any particular entry on the grounds mentioned, is a term of which the plaintiff could have no right to complain, because he accepted it with his eyes open."

In face of this wealth of authorities my task is quite straightforward. It is not difficult to see why all these big Pools Promoters have covered themselves with such rules and also again it is not difficult to see why the legality of such rules have been upheld by the courts. I gather from the evidence of Miss Dawodu the lady clerk who received the plaintiff's coupon that she received thousands every week and in view of the fact that there must be thousands of these shops in Lagos alone, the second defendants must be receiving millions of coupons every week from all parts of the country. If they were to be liable or had to defend themselves in court at the instance of every one of their stakers who thought he had won, it is easy to see the "pandemonium" which would result. "The business could not be carried on for a day on terms of that kind. It could only be carried on on the basis that everybody is trusting them, and taking the risk themselves of things going wrong." I believe the second defendants have set up an honest business to make it worth the while of their stakers to win and I take notice of the fact that nothing gives them greater pleasure than to announce big winnings by stakers from time to time. For obvious reasons however, they have legally (and judiciously) covered themselves from unscrupulous or frivolous claims.

Having decided that the rules of the second defendants have the effect of ousting the jurisdiction of this court it is now necessary to determine whether these rules were brought to the knowledge of the plaintiff.

In the first place paragraph 5 of the plaintiffs statement of claim reads as follows: -

"5. After checks and counter checks the plaintiff found that he had scored 24 points-the first dividend and according to the rules issued by the second defendant sent a telegram on the 1st of February, 1965 to and informing the second defendant that he had scored 24 points on the treble chance."

This shows that the plaintiff was fully aware of the rules and conditions governing the transaction between him and the defendants.

Secondly, the receipt for £1-16s-0d tendered by the plaintiff (Exhibit F) contains the following printed endorsement:

"It is a basic condition in accepting and sending in this coupon that it shall not give rise to any legal relationship or subject to any litigation but all such arrangements, agreement and transaction are binding in honour only.

Thirdly, Exhibit L which is a specimen coupon agreed to be identical to the original coupon filled in and submitted by the plaintiff contains the following printed condition to which every staker subscribes his full name and address:-

"I have read and agreed to the current rules and conditions of the Nigerian Pools Company Limited and remit in full a total amount staked on this coupon. I am not under 21 years of age."

In view of these findings from the evidence, I have no doubt that the Rules and Conditions of the second defendants have been brought to the notice and to the knowledge of the plaintiff and that he is bound by them.

Nothing in the brilliant submissions of Mr Awgu the learned counsel for the plaintiff affects the compelling force of the authorities I have referred to and, in the result the Order of this court shall be as follows:

Plaintiffs claim against the first and second defendants is dismissed. The defendants are both entitled to the costs of this action which I will now proceed to assess.

Action is dismissed