

Article 2 of the Uniform Commercial Code

Commercial transactions class

Lecture 1.03

Introduction

Setting

- Traditionally, every state had its own sales law
- States recognized that a uniform set of rules governing sales contracts promotes commerce
- The Uniform Commercial Code (UCC) provided a uniform solution for states to adopt
- Article 2 of the UCC governs sales of goods nationwide (almost)

Objective

- Today we examine the UCC and the formation of contracts for the sales of goods. At the end of the lecture you should be able to answer the following questions:
 1. What is the UCC?
 2. What is a sales contract?
 3. What kinds of contracts does the UCC govern?
 4. What is a merchant, and why is that designation significant?

The Uniform Commercial Code covers all of the phases of a commercial transaction

The UCC is a **model code** adopted by every state, in whole or in part

- In the early years of the nation, sales law differed by state
- Multistate contracts made interstate commerce difficult
- The UCC was developed by a private organization as a model law
- The UCC is a model act governing contracts involving the sale of goods

The UCC's coverage is comprehensive

- Key articles
 - Article 1 - Definitions and framework
 - Article 2 - Sale of Goods Article
 - Article 3 - Negotiable Instruments
 - Article 4 - Bank Deposits and Collections
 - Article 7 - Documents of Title
 - Article 9 - Secured Transactions
- Multiple aspects of the UCC may apply to a single 'business transaction'

Purpose of Article 2 of the UCC

Policy goal of the UCC Article 2

- Promote commercial efficiency and the completion of business transactions
- Achieved this by providing simple and standardized procedures that merchants and consumers may rely on in the event of unforeseen risks
- These simple and standardized rules and procedures are called "default rules"

Default rules fill in the "gaps" in business contracts

- Help courts resolve problems that were not anticipated or addressed in the contract
- Can be modified by the parties at the time they enter into their contract (as opposed to mandatory rules which cannot be modified)
- Default rules support the notion of a complete contract
- Article 2 of the UCC mainly comes into play when the parties to a sales transaction have not expressly agreed on certain terms

Article 2 of the UCC only applies to contracts for the sale of goods

- How does the statute define "sale?"
- A sale is "the passing of title from the seller to the buyer for a price"
- A sale of goods occurs when a seller transfers to a buyer ...
 - title to ...
 - goods ...
 - in exchange for a price.
- The price may be payable in money, goods, or services

What is a good?

- A good is a tangible thing that is moveable

Questions often arise whether Article 2 applies to the contract

Article 2 does not govern contracts for services, real property, or intangible personal property

- The UCC does not apply to real estate or employment contracts
- The UCC does not apply to insurance contracts
- The UCC does not apply to the sale of intellectual property (trademarks, copyrights, and patents)

Goods and services can be combined in a single contract

- A large number of disputes involving goods also involve services, real property, or intangible or immovable personal property
- Only one contracting system can apply to a transaction
- How do courts determine which contracting system to apply?

The predominate purpose test

- Generally, courts use the "predominate purpose" test
- Courts determine whether the main purpose of the contract is
 - the rendition of a service, with goods incidentally involved, or
 - whether the main purpose is the transaction of a sale, with labor incidentally involved
- What was the main purpose of the underlying transaction?

- Case discussion: *Milau Associates, Inc. v. North Avenue Development Corp.*, 368 N.E.2d 1247 (NY 1977)

The gravamen test

- Some states use the "gravamen" test
- What part of the underlying transaction gives rise to the dispute?
 - If goods, then Article 2 applies to the complaint, even if the predominant purpose of the transaction was to sell or buy non-goods
 - If non-goods, then Article 2 does not apply to the dispute, even if the predominant purpose of the transaction was to sell or buy goods
- Case discussion: *Anthony Pools v. Sheehan*, 455 A.2d 434 (Md. 1983)

Special provisions of Article 2 apply only to merchants

What is a merchant?

- In some cases, special standards apply to merchants
- A merchant is:
 - a person who regularly engages in the sale of goods of the kind involved in the contract

A merchant for one type of goods is not necessarily a merchant for another type

- Case discussion: *Deweldon, Ltd. v. McKean*, 125 F.3d 24 (1997)
- The UCC imputes a certain level of knowledge and awareness to merchants
- Thus, there is less necessity for safeguards intended for average customers

Parties to a contract under the UCC must perform in good faith

- Every contract or duty within this act imposes an obligation of good faith in its performance or enforcement.
- The UCC defines "good faith" as "honesty in fact in the conduct or transaction concerned."

Merchants are subject to an additional good faith standard

- "**honesty** in fact and the **observance of reasonable commercial standards of fair dealing** in the trade"

Article 2A governs contracts for the lease of goods

Article 2A covers any transaction that creates a lease of goods, as well as subleases of goods

^ Article 2A defines a lease as the bargain between a lessor and a lessee

- A lease is a transfer of the right to possess and use goods for a period of time in exchange for payment
- Thus a lease =
 - **Goods** - for a **term** - In exchange for **consideration**

Parties to a lease

- A lessor is one who sells the right to possession and use of goods under a lease
- A lessee is one who acquires the right to possession and use of goods under a lease

Conclusion

What did we learn today?

- The UCC covers all of the phases of an ordinary sale or lease of goods
- Article 2 of the UCC governs contracts for the sale of goods
- Article 2A governs contracts for the lease of goods