

In January, a garden center contacted a farmer who owned a greenhouse about growing seedlings for sale in the spring. The garden center promised in writing to buy, at a fixed price, all of the seedlings that the farmer raised in his greenhouse. As a consequence, a few days later the farmer purchased containers and seeds and hired a worker to prepare the containers, plant the seeds, and tend to the seedlings. Later that week, he emailed the garden center to tell it he had taken these actions. Just prior to the delivery of any seedlings, the garden center notified the farmer that it would not purchase any of the seedlings. The farmer sold the seedlings at a price far below the price set by the garden center.

The farmer filed a breach of contract action to recover damages.

Will the farmer likely succeed?

- A. No, because the garden center did not receive consideration for its promise to buy the farmer's output.
- B. No, because the garden center revoked its offer before it was accepted by the farmer.
- C. Yes, because the doctrine of promissory estoppel made the offer irrevocable.
- D. Yes, because the farmer accepted the garden center's offer by beginning performance.

Explanation:

Contract formation requires mutual assent, which occurs upon **acceptance of an offer** to enter a contract. Unless an offer specifies that it can only be accepted by performance (ie, unilateral contract), it can be accepted by promising or beginning performance. If acceptance is made by **beginning performance**, the offeree **must notify** the offeror **within a reasonable time** that performance has begun. Failure to do so will result in a **lapse** of the offer.

Here, the garden center promised to buy all the seedlings raised by the farmer. Since the farmer began to raise the seedlings—eg, by purchasing containers and seeds and by hiring a worker to tend the seedlings—the farmer accepted the garden center's offer by beginning performance. And since the farmer notified the garden center of this acceptance within a reasonable time ("later that week"), the garden center could not subsequently revoke its offer and refuse to buy the seedlings **(Choice B)**. Therefore, the farmer will likely succeed.

(Choice A) The garden center *did* receive **consideration** because its promise induced the farmer's reciprocal commitment to produce and sell the seedlings.

(Choice C) Under the doctrine of promissory estoppel, an offer may become irrevocable if the offeree reasonably and detrimentally relies on it *before* acceptance. But this doctrine does not apply here since acceptance occurred, and a contract was formed, when the farmer began to raise the seedlings and notified the garden center.

Educational objective:

Unless an offer specifies that it can only be accepted by performance, it can be accepted by promising or beginning performance. An offeree who accepts by beginning performance must notify the offeror within a reasonable time that performance has begun.

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Bilateral v. Unilateral contracts



