

Professor Illsley
Contracts - Final
Issue Outline
April 2011. Question 1.

Student Number: _____

Grade: _____

Points

Steve v. Jet

1. UCC Article 2
2. Terms of contract? Agreement at store, or was signing the form a requirement? Apply 2207(2) if form was a confirmation of oral contract formed at the store (in which case all terms out since NOT a contract between merchants). If no contract formed by the writings, but performance, then 2207(3) (in which case all terms out, no similar gap fillers).
3. Statute of Frauds? J authenticated confirmation form if suit is by S vs. J. Adequate notation on check plus custom goods exception if suit is J vs. S.
4. If no written contract, parol evidence rule not bar oral discussions.
5. Impracticability defense to Jet? Allocation of risk to him.
6. Material breach entitling S to withhold performance, plus damages (refund amount of downpayment)

7. If S signed, does this negate 2207 and make the form the binding contract?
8. Parol evidence analysis re oral agreement re stone. Reformation?
9. Liquidated damages valid?

Guido v. Steve.

1. Assignment. Takes subject to defenses in contract. Vested against future modifications because of notice.

Guido v. Jet.

1. Presumably suit on original loan. No transfer warranties since assignment was not for value (just goodwill gesture).

Kate v. Jet.

1. Intended donee 3PB? Takes subject to all of J's defenses.
2. Not vested against future modifications of S-J contract.

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Pts: Analysis:

Wine Giant vs. Sally to convey property – specific performance (property unique).

Assignment also a delegation? yes

Effect of anti-assignment clause? Addresses “right” not power

Defenses of Sally arising out of the Sally-Eddie contract?

Separate document signed contemporaneously NOT barred by the parol evidence rule.

Specific enough to be enforceable? Offer- consideration to hold open?

Material breach (or anticipatory repudiation) by WineGiant of offer to lease modular home? Divisible from sale of property? No

Other defenses to invalidate contract- – fraud by Eddie? made promises when he knew he couldn't perform

Sally v. Wine Giant- to honor promise to install and lease modular home. Same issues per above re enforceability of that promise. Impossibility defense of Wine Giant? (Note: “Frustration of purpose” is a defense of paying party – would allow Sally to get out of obligation to lease – but is no defense re her obligation to sell – she is really trying to say that right to lease was a condition to her obligation to sell.)

Sally v. Eddie (Fraud, breach of K, breach of anti-assignment clause? But what is measure of money damages?)

Wine Giant v Eddie– If Sally entitled to rescind because of statements of Eddie – breach of implied warranty by Eddie re no defense good against assignor?

Eddie v. Wine Giant – Eddie secondarily liable on delegated contract. If Sally sues for breach based on conduct of Wine Giant.