

Business law case study

7 pages | 1665 words

This essay will discuss the Case study by firstly identifying four elements of contract, then justifying duties of Mr. Martin with applying the principles of pre-existing contractual duties. Finally a discussion about part payment of debt and promissory estoppel will be explained. Likewise, this essay will evaluate the knowledge of common law and agency relationship.

QUESTION 1

a) Four essential elements of a contract should be Offer, Acceptance, Intention to create legal relations and Consideration. Firstly, offer, according to Adams(2012), is a full and clear statement of the terms~(p79) send to a party(the offeree) by another party(the offeror). Otherwise there could be a misunderstanding of an invitation to treat or negotiation which are similar statements. If an offer intends to be legally binding, acceptance, by which the offerees can show their agreement of all the terms of the offer, is needed. Acceptance needs to be valid and informing the offeror, while the terms should as same as the previous ones. Another element, i.e. consideration, aims to make sure the promise made is of value.

As defined by Jones (2011), the consideration needs to give benefits to the one, who is suffering a loss at the same time. Last but not least, while making an agreement to be legally enforceable, intention to create legal relations is important. While judging whether it is a binding contract or not, the situation to make this contract needs to be considered, in other words, according to Adams(2012), contract made in a domestic or social environment will not be legally bound. Otherwise, if parties are willing to do a commercial agreement, it will be regard as legally bound(Jones, 2011).

b) Mr. Martin need to pay the £750 due to two reasons, based on three cases existed as judicial precedents, which are *Stilk v Myrick*(1809), *Hartley v Ponsonby*(1857) and *Williams v Roffey bros*(1990)One perspective is that there is an additional value within the new contract, though Mr. Martin and Bob the builder were being under a pre-existing contract. Hold that the old contract is not over, due to the other aspect of reason, Mr. martin needs to pay the extra money in order to avoid the loss. These afore-mentioned two points will be justified by cases. *Stilk v Myrick*(1809) indicates that a captain promised the seamen extra money if they did successfully return back home.

The court finally hold that the captain is not duty to pay the extra money because the old contract is existed as there is not of additional value. While *Harley v Ponsonby*(1857) was held that the captain needs to pay the extra money, though the situation is similar, because the court consider there is extra value added to the new contract, whilst the old contract is discharged. There are some similarities among these two cases and Mr. Martin' s case. Mr. Martin also have an existed contract as both parties are agreed to terms of the contract, but comparing to *Stilk's* case, Bob the builder suggest a sub-contract with consider an additional value, which is the value of Martin's seafood. Meantime,...

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Raffaela Di Napoli



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