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Case Comment: Dickinson vs Dodds

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INTRODUCTION

An offer to sell property can be withdrawn at any time before it is accepted, with no official notification to the person who made the offer. It is sufficient if the person who made the offer has real information that the person who made the offer has done anything incompatible with the offer's continuation, such as selling the property to a third party. It seems to be that the sale of the property to a third party constitutes a withdrawal of the offer, even if the person to whom the offer was originally made was unaware of the sale. Dodds made an offer to Dickinson on June 10th, indicating that 'this offer will stay available until 9.00 am on June 12th.' On June 11th, Dickinson decided to accept, although he did not inform Dodds right once. Dickinson was notified by a third party on the 11th that Dodds had sold to someone else. The offer was then purportedly accepted by Dickinson. Dodds said it was too late because the house had already been sold. The Court decided that no specific form of revocation is necessary since Dickinson knew Dodds no longer planned to sell at the time of apparent acceptance, and that was sufficient.

FACTS OF THE CASE

On the 10th of June 1874, Wednesday, the defendant, John Dodds, sent a written offer to the plaintiff, George Dickinson, whereby he consented to sell his house to him at \$800 and stated that the offer was to be left open until the 12th June 1874, Friday, 9 a.m. The plaintiff on June 11th, 1874, Thursday, decided to accept the offer but decided not to disclose it to the defendant immediately because he thought he had time until Friday at 9 AM. However, on the afternoon of June 11, 1874, Mr. Berry, agent of Mr. Dickinson, notified the plaintiff, that Dodds had agreed to sell his land to another person named Thomas Allan. Following the afternoon incident, George left a formal acceptance to buy the house in writing with Dodds' mother-in-law on the evening of June 11th. Dodds, however, never received notification of George's acceptance since his mother-in-law forgot to give it to him. On the morning of June 12th, Mr. Berry found Mr. Dodds at a railway station. He delivered Dodds a duplicate copy of George's acceptance after meeting him, but Dodds informed him that he was too late to accept the offer. Mr. Dickinson located Dodds after a few minutes, but he too was informed that he was too late, since he had already sold the property to Mr. Thomas Allan for \$800 on June 11th, and had received a deposit of \$40 from him.

ISSUES RAISED

- Whether Mr. John Dodds' pledge to keep the offer available until 9:00 a.m. on June 12th a binding contract?
- Whether it was legal for Mr. John Dodds to rescind the offer and sell the home to a third party?

RELEVANT RULE

Standing Offer:¹ A standing offer is permitted to stay open for acceptance for an extended length of time. Before the order is placed, an offer might be cancelled or withdrawn. Even

¹ Samarth Suri, 'Types of offer under Indian Contract Act 1872' (*Ipleaders*, 15 April 2020) <<https://blog.ipleaders.in/types-of-offer-in-indian-contract-act-1872/#:~:text=An%20Offer%20which%20remains%20open,a%20kind%20of%20Standing%20Offer>> accessed 20 March 2022

though the offer is initially kept available until a specific time, it can be retracted sooner since the offeror is not obligated to keep the offer open and can revoke it at any moment before it is accepted.

Revocation of Offer by Notice:² When an offer is accepted, it becomes a contract. It establishes no obligation before it is accepted, therefore it can be revoked at any point before it is accepted. A proposal can be revoked by the proposer sending a notice of revocation to the other party.

Revocation of Offer by Lapse of Time: A proposal is cancelled when the time allotted for its acceptance expires, or if no time is allotted when a fair amount of time passes without the acceptance being communicated. The parties may sometimes specifically specify the length of time the offer will be open. If an offer is not accepted within the specified time frame, it will automatically lapse and will not be considered again.

JUDGMENT

J. James and J. Melish after referring to the document dated 10th June 1874 held that: The document, however, began with the words "I, therefore, agree to sell," which was merely an offer, and was only supposed to be an offer, because Plaintiff himself admits that he required time to decide whether or not to enter into an agreement. There was no finalized agreement established until both parties consented; it was in effect and content only a proposition to sell. Because the plaintiff party does not intend to finalize the transaction at that time, he adds the following memorandum:

"This offer is to be left over until Friday, June 12th, 9:00 a.m." This proves it was only a proposal. There was no consideration given for the guarantee or promise, to whatever degree it may be considered binding, to keep the property unsold until 9 a.m. on Friday; however, Dickinson and most likely Dodds agreed, that he (Dodds) was limited by that promise, and couldn't in any way withdraw from it, or retract it, until 9 a.m. on Friday, and this presumably clarifies a good deal of what happened after. Nonetheless, it is plain settled law, on one of the clearest norms of law, that this commitment, as a mere nudumpactum, was not enforceable,

² *Ibid*

and that Dodds was as free as Dickinson himself at any stage before Dickinson's final acceptance of the offer. That being the case, it is believed that the only way Dodds could announce his release was to tell Dickinson, "Now I retract my offer." It appears to me that there is neither guideline nor authority for the proposition that there should be an express and actual withdrawal of the offer, or what is known as a retraction. It must, to establish a contract, appear that two minds were at one, at the very same moment, that will be, that there was an offer continuing up to the hour of the acceptance. If there was not such a continuing offer, then the acceptance comes to nothing. Plaintiff says in effect, after hearing and realizing that Dodds was no longer minded to sell the property to him and that he was selling or had offered to another person, believing that he couldn't in the purpose of law withdraw his offer, which means to fix him to it, and attempting to bind him. "I went to the house where he was lodging, and saw his mother-in-law, and left with her an acceptance of the offer, knowing all the while that he had entirely changed his mind. I had an agent keep an eye out for him at 7 a.m. the next morning, so I went to the train just before 9 a.m. to catch him and give him my notice of acceptance, and when that happened, he told my agent, and he told me, you are too late, and he threw back the paper." Before Plaintiff made any effort at acceptance, I am confident that he was well aware that Dodds had changed his mind and had agreed to sell the property to Allan. It is hard to say that the two parties were ever of the same mind, which is required by law for the formation of a contract. As a result, I believe Plaintiff has failed to establish that he and Dodds had a legally enforceable contract.

ANALYSIS

The issue here is based on the idea that a promise to keep a certain offer available for a specified amount of time is only a promise unless it is rendered enforceable by contemplation and acceptance. The elements of an offer, acceptance, and consideration are necessary for the formation of a legally valid contract. According to the written opinions of J. Mellish and J. James, the letter in the following case was nothing more than an offer. There is no enforceable contract between the offeror and the offeree when there is an open offer that hasn't been accepted by the offeree, thus the offeror can make a comparable offering to other parties. As a

result, the court rejected Dickinson's contention that the offer can only be retracted by an express notification to the offeree. An offer does not constitute a contract and can be revoked at any moment. Even though the offer said that it would be open until 9 a.m. on Friday, it was not binding because the acceptance was not notified. Because Dodds had agreed to sell the land to a third party, the "meeting of minds" that is required for a contract to be drafted could not take place in the current scenario. As a separate agreement from the proposal to sell the property, a specified consideration would have supported the commitment to keep the specific property unsold for the duration of the contract. Without it, Dodds was able to back out of the offer, which was only a promise rather than a binding contract. Because Dodds had not expressed his approval, a third party purchased the property before the plaintiff could. Thus, it was held that Mr. Dodds' declaration was only a promise, not a legally enforceable contract between the parties. The offer to buy the residence might be rejected at any point before it is accepted, and without any clear notification about it. There was no promise to keep the offer open because there was no agreement.

CONCLUSION

The declaration made by the defendant, Mr. Dodds, was found to be only a promise and not a legally enforceable contract between the parties. The offer to buy the residence might be withdrawn at any moment before acceptance and without any express contact. There was no responsibility to keep the offer open because there was no agreement.