Business Law

Student Name:

Student ID:

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IPAC1 - Past Consideration

Issue

The issue in the case is that Anthony has not paid William the RM50,000 that was promised for the services provided by William to Anthony for the mining permit. Therefore, the issue in the case is whether William can sue Anthony for breach of contract.

Principles

In the case **Chong Hin Trading Co Sdn.Bhd,Dato Lem Lee Siang & Lim Lee Cheng dan Lim Siw Cheng & Lim Seow Cheng vs. Malayan Banking Berhad**, the Court of Appeal of Malaysia, under section 75 of the Contract Act 1950 ruled the 'entitlement for the compensation' for breach of contract not exceeding the stipulated amount in the contract. The Court of Appeal of Malaysia, under section 80 of the Contract Law 1950 also entitled 'consideration for guarantee' which states the surety's willingness to provide a guarantee may be motivated by anything done or promised to the lead debtor.

In the case **Roscorla v Thomas (1842)**, England and Wales High Court (Queen's Bench Division) held that the promise made by the defendant was unenforceable as the promise was made after the completion of sale. However, if the promise was made before the transaction the plaintiff could have provided consideration. Therefore, the England and Wales High Court decided as per the Contract Act 1990, the consideration was past.

In the case **Lampleigh v Brathwait (1615)**, England and Wales High Court (King's Bench Division) held that the payment of £100 was a consideration as there was direct link with the earlier request and the parties had a clear understanding that the payment will be made. If the parties intended that there will be compensation for the act, then the promise made after the event could be enforced.

Application

Applying the above mentioned principles, Anthony is in a legal bind to make the payment as per the Contract Act 1950. The 'past consideration' under the Act is considered 'good consideration.' On the other hand, the English Contract Act 1990, does not hold 'past consideration' enforceable by law. However, the promise made by Anthony to William for the payment of RM50000 is sufficient past consideration and the parties were aware of the payment to be made.

Conclusion

In conclusion, there is a breach of contract, and William can sue Anthony for the non-payment of contractually agreed payment amount.

IPAC2 - Future Consideration

Issue

ABC Sdn Bhd refused to sell the office lot. Therefore the issue in the case is whether William can sue ABC Sdn Bhd for breach of contract for non-execution of future promise.

Principles

In the case of **Re McArdle (1951)** the Court of Appeals held that the deal was never fully sealed. That's why it wasn't a real gift, just a promise to pay. Mrs. McArdle had already finished the job when she started demanding money. The consideration for her agreement was in the past. According to English Law, past consideration is not a good consideration. As a result, the agreement was null and void and not enforceable by law.

In the case of **Kepong Prospecting Ltd & Ors v Schmidt (1968)** the court rejected Schmidt's request to enforce his claims as he was not a party to the initial agreement between T and KP. According to Contract Act 1950 Schmidt was judged to have provided consideration for the agreement between himself and KP. For this reason, Schmidt had the legal right to pursue KP for the money that was owing to him under the terms of their contract.

In the case of **Re Casey's Patents (1892)** The Court of Appeals decided that Casey should have known that he would be compensated for his efforts. A manager would have reasonably anticipated being compensated for the time spent on this task; it was not done out of kindness alone. Thus, the promise to pay was only a formalisation of what was already a fair anticipation. Therefore, Casey's prior effort was thus sufficient consideration, making the contract binding.

Application

The agreement between Willaim and ABC Sdn Bhd was a mere promise and no past consideration was provided by either of the parties. As English Law dictates an agreement or a promise does not bind the parties into a legal contract. However, according to Contract Act

1950, the anticipation for the promise to be fulfilled was sufficient consideration making the contract legally binding.

Conclusion

In conclusion William does not have the stand to sue ABC Sdn Bhd as there was no breach of contract.

IPAC3 - Part Payment Consideration

Issue

William accepted the part payment for RM6000 for the services offered to DEF Sdn Bhd and now asks for claims for the remaining payment. However, DEF Sdn Bhd made the payment of RM6000 as full settlement for the services. Therefore, the issue in the case is that will Willam be able to claim the remaining RM6000.

Principles

In the case of Penny v Cole also known as **Pinnel's case (1602)** England and Wales High Court (King's Bench Division) upheld the fundamental principle that only full payment of consideration may discharge a debt in full. For most debts, the general rule is that only full repayment will satisfy the debt, and any partial payment will not do so. However, because of the timely nature of the payment, the obligation was cancelled.

Similarly, in the case of **Foakes v Beer (1884)** the court House of Lords stated that the defendant was not obligated by it since the contract was not sealed. Therefore, the courts have ruled that partial payment neither constitutes full satisfaction or that payment of a smaller amount of money in exchange for a greater sum is not consideration.

In the case of **Tiun Eng un v Wong Sie King (1975)** the lawsuit was initially filed by the plaintiff in an effort to recoup a monetary amount from the defendant. After that, the plaintiff "agreed to remove the entire subject from the court action" and receive specified items and products from the defendant in exchange for a written agreement. Since the plaintiff had taken consideration other than money that is commodities and articles, the High Court ruled that there was concord and satisfaction.

Application

Applying the principles mentioned above, William has been paid consideration lesser than the stipulated amount of the contract and such considerations does not discard DEF Sdn Bhd from its legal obligation to pay the debt in full. The general rule under the English Law states that only full payment will satisfy the debt. However, according to Contract Act 1950, consideration other than what is mentioned in the contract will also satisfy the debt.

Conclusion

In conclusion, even after William accepted the payment of RM6000 which DEF Sdn Bhd stated as full settlement for his services; he can claim the remaining consideration of RM6000 from DEF Sdn Bhd as they are legally obligated to make the full payment.

IPAC4 - Intention

Issue

The issue is that William promised his wife Brenda to buy her a Chanel Bag worth RM35000 by the end of the month; however, he bought her a fake one worth RM35. Therefore, the issue is that was William legally bound to fulfil his promise.

Principles

In the case of **Balfour v Balfour (1919)** the Court of Appeal of England and Wales held that the Law of Contract cannot be used for family agreements. Justice Atkin noted that because there was no desire to be legally obligated when the arrangement was consented upon, there can be no contractual obligation. Justice Warrington, supporting the outcome, agreed essentially with Justice Atkin, although emphasised that there was no negotiation of any type made by Mrs. Balfour adequate for an enforceable contract. Therefore, Promises in marital or any family agreements positions are not legally enforceable.

In the case of **Merritt v Merritt (1970)** Mrs Merritt claimed that Mr Merritt is legally bound to transfer the ownership to her. The England and Wales Court of Appeal (Civil Division) ruled that the agreement between the Merritts was not a just domestic agreement rather the agreement was a legally binding contract due to the nature of the transactions and the fact that they were separated at the time the contract was made. Since the parties in these kinds of situations, "do not depend on honourable understandings" but rather "bargain keenly" it is reasonable to assume that they intend for whatever agreement they reach to have legal repercussions.

In the case of **Wilson & Anor v Burnett (2007)** the plaintiffs claimed that the agreement made by them with the defendant was legally binding and enforceable by law and the prize money will be split among the three friends. The England and Wales Court of Appeal (Civil Division) held that there was no evidence of an agreement to develop legal obligations as there was no intention to create any legal contract.

Application

Based on the principles mentioned above, as William and his wife Brenda are not separated, therefore agreement to give Chanel Bag by William to Brenda does not bind him in a legal contract. It is a matter of family or social agreement which is not enforceable by law. For them to be bound in a legal contract, they had to be separated as two contracting parties and agreement with evidence of legal obligations had to be present.

Conclusion

In conclusion, William is not in any legal binding to fulfil his promise to Brenda.

IPAC5 - Capacity

Issue

William’s son Jack, a 15 year old boy, is pressuring him to pay RM15000 to Yamada Music School for his vocal lesson. Therefore the issue is whether Jack is in capacity to enter into a valid contract as he is a minor.

Principles

In the case of **Nash v Inman (1908)** England and Wales High Court (King’s Bench Division) ruled that Inman was too young to legally buy clothes and that he already had sufficient supplies of apparel. The trial judge thus instructed the jury to rule in support of Inman, concluding that there was insufficient evidence to support the claim that the clothes belonged to the category of necessities. It is established by the Infants' Relief Act of 1874 and the Sale of Goods Act of

1979 that any contract entered into by a minor is null and invalid, with the exception of transactions involving necessities.

In the case of **Tan Hee Juan v Teh Boon Keat (1934)** the plaintiff was in no capacity to enter into a contract as he was a minor under section 2 of the Age of Majority Act 1971. Therefore, the court ruled that the transaction under the contract is void and ordered for the restoration of the property to the minor.

In the case of **Government of Malaysia v Gurcharan Singh & Ors (1971)** because the first defendant was a minor, the defence effectively argued that the contract entered between the second and third defendants was null and invalid and, as a result, that they were not accountable. According to the court's interpretation of Section 11 of the Contract Act of 1950, the agreement is null and invalid, not only voidable.

Application

Applying the principles mentioned above, Jack is in no capacity to enter into a valid contract because he is a minor under section 2 of the Age of Majority Act 1971. Moreover, the English Law specifies that any contract entered into by a minor is null and invalid, with the exception of transactions involving necessities.

Conclusion

In conclusion, Jack is in no capacity to enter into a contract.

IPAC6 - Illegality

Issue

The issue is that was there a legal contract between Willaim and Sean and can Willaim sue Sean for breach of contract if there was a valid contract.

Principles

In the case of **Edgington v Fitzmaurice (1885)**, the England and Wales Court of Appeal (Civil Division) held that the claimant had been persuaded by the defendant's significant misrepresentation of the reasons for issuing the debentures. Director liability for dishonesty was established on this basis, notwithstanding the premise that the plaintiff's own misunderstanding of the debentures contributed to the result. Therefore, any claim made about another person's mental state is a representation of that person's state of mind, hence any inaccuracies therein may be considered a kind of deception.

In the case of **Chung Khiaw Bank Ltd v. Hotel Rasa Sayang Sdn Bhd & Anor (1990)** the Supreme Court ruled that the 1980 loan violated section 67 of the Companies Act 1965, which forbids the hotel from providing any financial aid, directly or indirectly, with the intention of trading in the stock of the business itself or its holding companies. The bank, armed with legal counsel, was found to have known about and been plainly complicit in the wrongdoing. Section 24 is composed of very specific legal mandates. As stated in the laws, any agreement based on the consideration and purpose described in sections (a) through (e) of Section 24 is null and unenforceable.

In the case of **Ahmad Bin Udon & Anor v Ng Aik Chong (1969)** the Sessions Court ruled in favour of the respondent in an action to recover the amount paid according to the agreement. When appealing that ruling, the appellants brought up an argument that they had not made before the lower court that is the agreement was invalid because it violated section 3(1) of the Padi Cultivators Act, and therefore the respondent could not get their hands on the money they paid to get out of the illegal agreement. However, in English Law, recoupment of funds given for an unlawful purpose that was not realised is not possible unless the plaintiff repents and the plan is thwarted. This agreement fell within the scope of "if found to be invalid" under section 66 of the Contract Act of 1950. Thus, the respondent was entitled to a return of any funds already sent in fulfilment of the unlawful agreement.

Application

Applying the above mentioned principles the contract between William and Sean was an invalid contract under section 95 and 96 of the Contract Act 1950. Sean obtained the guarantee by misrepresentation and concealment of the material circumstances during the agreement with William. Therefore, as William ‘discovered the agreement to be void’ he can claim for compensation in proportion to the advantage gained by Sean under section 66 of the Contract Act 1950. Under section 66, Sean is bound by law to restore or compensate any advantage received from William.

Conclusion

In conclusion, the agreement between William and Sean was an invalid contract, therefore he cannot claim for reward as stated in the agreement. However, William is entitled for compensation equal to the amount he contributed.

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Contracts (Applicable Law) Act 1990

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