Smith v Hughes

(1871) LR 6 QB 597, 40 LJQB 221, 19 WR 1059, [1861-73] All ER Rep 632, 25 LT 329

Court: Court of Queen's Bench

Judgment Date: 06/06/1871

Catchwords & Digest

CONTRACT - FORMATION OF CONTRACT - OFFER AND ACCEPTANCE - ACCEPTANCE GENERALLY - WHAT CONSTITUTES - CONDUCT - ACTS AMOUNTING TO ACCEPTANCE - ACQUIESCENCE — GENERAL RULE

ESTOPPEL - ESTOPPEL IN PAIS - ESTOPPEL BY CONDUCT - IN GENERAL - GENERAL RULE

MISTAKE - LEGAL CONSEQUENCES AND CLASSIFICATION OF MISTAKE - MISTAKE OF FACT - MISTAKE AS TO QUALITIES OF SUBJECT MATTER - UNILATERAL MISTAKE - NOT CONTRIBUTED TO BY OTHER PARTY - WHETHER CONTRACT INVALIDATED — SALE OF GOODS — MISTAKE BY BUYER KNOWN BY SELLER — PASSIVE ACQUIESCENCE OF SELLER

SALE OF GOODS - CONDITIONS AND WARRANTIES - IMPLIED TERMS AS TO QUALITY OR FITNESS - GENERAL RULE — CAVEAT EMPTOR - WHEN RULE APPLIES — SALE OF SPECIFIC ARTICLE — WHEN BUYER HAD OPPORTUNITY OF EXAMINATION

In a contract of sale of oats, the Court of Queen’s Bench ordered a new trial on the following grounds: (1) the passive acquiescence of the claimant seller in the self-deception of the defendant buyer had not entitled the latter to avoid the contract; (2) the County Court’s direction had not brought to the jury’s minds the distinction between agreeing to take the oats under the belief that they were old, and agreeing to take the oats under the belief that the seller contracted that they were old; and (3) the direction had not sufficiently explained to the jury that in order to relieve the buyer from liability, it was necessary that they should find, not merely that the claimant had believed the defendant to believe that he was buying old oats, but that the seller had believed the buyer to believe that the seller was contracting the sell old oats. The rule of caveat emptor applied if a specific article was offered for sale.

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Cases referring to this case

CLS Civil Engineering Ltd v WJG Evans and Sons (a partnership)

02/02/2024
TCC

[2024] EWHC 194 (TCC), 212 ConLR 287, [2024] All ER (D) 95 (Feb)
Considered

VTB Capital plc v Nutritek International Corp

06/02/2013
SC

[2013] UKSC 5, [2013] 2 AC 337, [2013] 1 All ER 1296, [2013] 2 WLR 398, [2013] 1 All

ER (Comm) 1009, [2013] 1 BCLC 179, [2013] All ER (D) 47 (Feb)
Applied

Daventry District Council v Daventry & District Housing Ltd

09/10/2011
CACivD

[2011] EWCA Civ 1153, [2012] 1 WLR 1333, [2012] 2 All ER (Comm) 142, [2012] Bus LR 485, [2011] 42 EG 120, [2011] All ER (D) 200 (Oct)
Applied

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29/09/2008
CommlCt

[2008] EWHC 2257 (Comm), [2009] 1 All ER (Comm) 1035, [2008] All ER (D) 116 (Sep)
Followed

Great Peace Shipping Ltd v Tsavliris Salvage (International) Ltd, The Great Peace

09/11/2001
CommlCt

[2001] All ER (D) 152 (Nov)
Considered

Barratt Homes Ltd v BBF Consultancy Group

12/07/2001
CACivD

[2001] EWCA Civ 1155, [2001] All ER (D) 165 (Jul)
Considered

Day v McCrum

31/05/1996
NIChD

[1996] NI 607, [1996] Lexis Citation 6665
Dictum of Blackburn J Applied

Bell v Lever Bros Ltd

15/12/1931
HL

[1932] AC 161, [1931] All ER Rep 1, 146 LT 258
Considered

Blay v Pollard and Morris

28/03/1930
CA

[1930] 1 KB 628, [1930] All ER Rep 609, 143 LT 92
Considered

London Holeproof Hosiery Co Ltd v Padmore

circa 1928
CA

Applied

Scott v Coulson

20/01/1903
ChD

[1903] 1 Ch 453

Applied

Pope and Pearson v Buenos Ayres New Gas Co

circa 1892
CA

Considered

Cases considered by this case

Raffles v Wichelhaus

20/01/1864
ExCh

Considered

Horsfall v Thomas

05/05/1862
ExCh

6 LT 462
Doubted

Horsfall v Thomas

05/05/1862
ExCh

6 LT 462
Considered

Scott v Littledale

circa 1858
pre1874

Considered

Freeman v Cooke

11/07/1848
ExCh

2 Exch 654, [1843-60] All ER Rep 185
Applied

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