1. Assume that before any wheat is shipped to Processor, the price of wheat falls sharply. If Processor informs GrainCo that it will not accept the ten railroad cars of wheat, will Processor be liable to GrainCo for breach of contract. Discuss?

GrainCo v. Processor

U.C.C

The U.C. C. applies to transactions in goods.

The contract deals with the selling of wheat, thus it is a transaction in goods.

Thus, the U.C.C. applies.

Merchant

A merchant deals in goods of a kind.

GrainCo distributes wheat, thus deals in goods of a kind. Processor purchases a high volume of wheat, thus processor deals in goods of a kind.

Thus, both GrainCo and Processor are merchants.

Offer

An offer is an outward manifestation of present contractual intent with definite and certain terms which is communicated to the offeree.

GrainCo sent an offer to sell demonstrating an outward manifestation of present contractual intent. The offer stated 10 railroad cars, quantity, and the blank spaces for price, delivery and date were filled out, establishing time, identity of parties and price. Further, the contract dealt with railroad cars of wheat, thus subject matter was also identified. Hence the terms where stated with particularity making them definite and certain.

The form was sent to Processor, thus communicated to the offeree.

Hence a valid offer.

Acceptance

An unequivocal assent to the terms of the offer.

Processor responded with a standard form with an added paragraph of California law governing the agreement. Thus, Processor's response was not an unequivocal assent to the terms of GrainCo's offer.

Battle of the Forms -- U.C.C. 2-207

Pursuant to U.C.C. 2-207, additional terms between merchants become part of the contract unless the acceptance is expressly conditional.

Both GrainCo and Processor are merchants. GrainCo's offer stated any contract resulting from acceptance of this offer should consist only of those terms appearing on the *front* and reverse sides of this document. Since GrainCo conditioned acceptance on these terms Processor's clause in the acceptance form is not part of the contract.

Thus, an acceptance will be found with the terms on GrainCo's offer form.

Consideration

Bargained for exchange of a legal detriment.

GrainCo agreed to deliver wheat in exchange for Processor's payment for the wheat. Processor agreed to pay for the wheat in exchange for GrainCo's delivery of the wheat. Thus, valid consideration exists.

Statute of Frauds

A contract for the sale of goods over $500.00 or more must be in writing to be enforceable.

Ten railroad cars of wheat are goods. Arguably, such amount of wheat costs more than $500.00 such that the contract must be in writing.

Exception – Sufficient Memorandum

A memorandum with essential terms signed by the party to be charged will take the contract out of the purview of the statute of frauds.

Processor's purchase order form contained the description of the goods, quantity, price and delivery date. Thus, it contained the essential terms.

Further, the form contained the name and logo of the company, which may satisfy the signing by the party to be charged.

Exception - Estoppel to Plead Statute of Frauds

Where a promisor represents by conduct that he will perform, in spite of statute of frauds, coupled with promisee's detrimental reliance, he will be estopped to assert the statute of frauds.

Soon after receiving Processor's order form, GrainCo purchased 10 railroad cars of wheat from a local supplier. As evidenced by GrainCo's conduct, it relied on Processor's order to its detriment. Thus, the statute of frauds is no defense.

Conditions

An act or event that must occur before one's duty arises.

Constructive Condition Precedent

GrainCo must deliver the wheat before Processor's duty arises to pay.

Anticipatory Repudiation

Processor informed GrainCo that it would not accept the 10 railroad cars of wheat, thus repudiating the contract.

Commercial Impossibility

Processor will contend that the price of wheat has fallen sharply, thus it is commercially impossible for it to perform. However, being able to pay a lesser price for wheat does not make the contact commercially impossible.

Anticipatory Breach

Processor told GrainCo prior to delivery that it would not accept the 10 railroad cars of wheat. Thus, Processor repudiated the contract prior to GrainCo's performance.

Damages

GrainCo can recover the full contract price, plus incidentals.

2. Assume instead that GrainCo delivers the ten railroad cars of wheat to Processor and Processor pays to GrainCo the full contract price. If Processor has a complaint about the quality of the wheat it received, must Processor submit its claim to the Commercial Arbitration Association? Discuss.

Processor v. GrainCo

Non-Conforming Goods -- Perfect Tender Rule

If the goods or tender of delivery fail in any respect to conform to the contract, buyer may

reject the whole*,* accept the whole, or accept any commercial unit(s) and reject the rest.

Processor had a complaint about the quality of the wheat, thus Processor argued that the goods failed to conform to the quality set forth in the parties' contract. Since the non-conforming goods were delivered, the perfect tender rule was violated. Thus, Processor's action of accepting the whole was proper, except he must now sue for the difference between the contract price and the value of lesser quality wheat.

U.C.C. 2-207 – Additional Terms

Defined and discussed supra.

Thus, Processor will be bound by the arbitration clause in GrainCo's form since the form was expressly conditional.