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Article 2: Sales

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UNIFORM COMMERCIAL CODE ANNOTATIONS

This section contains a digest of all decisions of courts of record interpreting provisions of the Uniform Commercial Code from the previous issue of the REVIEW encompassing the published reports of the National Reporter System from January 1, 1960 to September 24, 1960 and Volume 18 through Volume 20, Pennsylvania District and County Reports 2d Series. While the Code has now been adopted in six states, no decisions up to this time have been found decided other than under the Pennsylvania statute.

Where a decision interprets only a portion of a Code section that portion is cited prior to the reported case. Appropriate notation is made concerning those decisions which are based upon language contained in the 1953 version of the Code to the extent that such language differs from the 1958 Official Text.

Subsequent issues of the REVIEW will keep the annotations up to date.

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ARTICLE 2: SALES

SECTION 2-314. Implied Warranty: Merchantability; Usage of Trade

(1) Unless excluded or modified (Section 2-316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. . . .

Victor v. Barzoleski, 19 Pa. D. & C. 2d 698 (1960)

Where plaintiffs and defendant entered into an oral agreement whereby defendant, a general handyman, agreed to purchase a stoker boiler unit for plaintiffs and to install it as part of a hot water heating system in their home with the understanding that defendant would not guarantee the unit, the agreement did not create between the parties the relation of buyer and seller within the meaning of Section 2-314.

SECTION 2-315. Implied Warranty: Fitness for Particular Purpose

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.

(Where a cited case interprets only a portion of a Code section only that portion is set out)

Victor v. Barzoleski, 19 Pa. D. & C. 2d 698 (1960)

Where plaintiffs and defendant entered into an oral agreement whereby defendant, a general handyman, agreed to purchase a stoker boiler unit for plaintiff home owner and to install it as part of a hot water heating system with the understanding that defendant would not guarantee the unit, the agreement did not create between the parties the relation of buyer and seller within the meaning of Section 2-315 so as to enable plaintiffs to recover from defendant for the costs of replacing the unit on the theory of a breach of an implied warranty of fitness.

SECTION 2-702. Seller's Remedies on Discovery of Buyer's Insolvency

(2) Where the seller discovers that the buyer has received goods on credit while insolvent he may reclaim the goods upon demand made within ten days after the receipt. . . .

(3) The seller's right to reclaim under subsection (2) is subject to the rights of . . . lien creditor under this Article (Section 2-403). . . .

In re Kravitz, 278 F.2d 820 (3d Cir. 1960)

In a reclamation proceeding brought by a seller of goods seeking to reclaim them against a trustee in bankruptcy of the buyer, on the ground that the buyer was insolvent when the credit sale was made, reclamation was denied since Pennsylvania law gives certain lien creditors higher claims than that of a defrauded seller. Such a seller cannot rescind the sale or reclaim the goods as against a creditor of the buyer who caused an attachment to levy or execution to issue against the goods as a result of a debt contracted by the buyer subsequent to an alleged voidable sale, notwithstanding Section 2-702.

N.B. This case was decided under the 1953 draft of the Code in which Section 2-702(1) read: "(1) . . . where a seller discovers the buyer to be insolvent he may . . . (b) subject to the rights of a buyer in ordinary course . . . or lien creditor under this Article (Section 2-403) and within ten days after receipt, reclaim any goods received by the buyer on credit . . ."

SECTION 2-711. Buyer's Remedies in General, Buyer's Security Interest in Rejected Goods

(3) On rightful rejection or justifiable revocation of acceptance a buyer has a security interest in goods in his possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may hold such goods and resell them in like manner as an aggrieved seller (Section 2-706).

(Where a cited case interprets only a portion of a Code section only that portion is set out)

Marks v. Lehigh Brickface, Inc., 19 Pa. D. & C. 2d 666 (1960)

In an action by home owners for the return of the purchase price of artificial stone which defendant applied to the cinder block wall of their house, their out-of-pocket expenses, and punitive damages for the fraud of defendant in knowingly misrepresenting the quality and colorfastness of the product, plaintiffs need not return or offer to return the stone which had been applied to the house since, under Section 2-711, they had a lien on the stone until the purchase price had been refunded.

N.B. This case was decided under the 1953 draft of the Code in which Section 2-711 read: "(3) On rightful rejection or justifiable revocation of acceptance a buyer who has paid all or a part of the price has a security interest in goods in his possession or control for the amount paid plus any expenses reasonably incurred in their inspection, receipt, transportation, care and custody and may on notifying the seller of his intention to do so, hold such goods and resell them in like manner as an aggrieved seller."

ARTICLE 9: SECURED TRANSACTIONS; SALES OF ACCOUNTS,
CONTRACT RIGHTS AND CHATTEL PAPER

SECTION 9-103. **Accounts, Contract Rights, General Intangibles and
Equipment Relating to Another Jurisdiction; and
Incoming Goods Already Subject to a Security
Interest**

(1) If the office where the assignor . . . keeps his records . . . is in this state, the validity and perfection of a security interest . . . is governed by this Article.

Industrial Packaging Products Co. v. Fort Pitt Packaging International Inc., 399 Pa. 643, 161 A.2d 19 (1960)

Although a contract, whereby Pennsylvania borrower's interest in a government contract was assigned to a lender, provided that agreement and performance thereof should be governed by the laws of New York, the laws of Pennsylvania governed the proceedings dealing with the rights of creditors of the borrower who had been placed in receivership.

SECTION 9-108. **Where After-Acquired Collateral Not Security for
Antecedent Debt**

Where a secured party makes an advance, incurs an obligation, releases a perfected security interest, or otherwise gives new value which is to be secured in whole or in part by after-acquired property his security interest in the after-acquired collateral shall be deemed to be taken for new value

(Where a cited case interprets only a portion of a Code section only that portion is set out)