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Article 3: Commercial Paper

Steven H. Grindle

Gerald F. Petruccelli_Jr

of the Code and concluded that title would not pass until the seller completed physical delivery of the goods.

G.F.P.

WICKHAM v. LEVINE
261 N.Y.S.2d 702 (Sup. Ct. 1965)
Annotated under Section 2-106, supra.

ARTICLE 3: COMMERCIAL PAPER

SECTION 3-104. Form of Negotiable Instruments; "Draft"; "Check"; "Certificate of Deposit"; "Note"

UNIVERSAL C.I.T. CREDIT CORP. v. INGEL
196 N.E.2d 847 (Mass. 1964)
Annotated under Section 3-104, 6 B.C. Ind. & Com. L. Rev. 90 (1964).

The Massachusetts Supreme Judicial Court, in finding that the plaintiff was a "holder in due course" under Section 3-302, had stated that "the standard of notice contemplated under . . . § 3-302(1)(c) is actual notice and not merely reasonable grounds for belief." 1964 Mass. Adv. Sh. 367, 372, 196 N.E.2d 847, 851-52. Subsequent to the report of this case, the court modified its opinion, 347 Mass. 119, 125 (1964), adopting the view that "notice" as used in Section 3-302 does not mean "actual knowledge." Under Section 1-201(25), "a person has 'notice' . . . when . . . from all the facts and circumstances known to him at the time in question he has reason to know that it exists." The court, however, did not reverse its finding that the plaintiff was a "holder in due course" because "there was nothing in this evidence by which the plaintiff had 'reason to know' of any fraud." *Compare,* Annotation, 6 B.C. Ind. & Com. L. Rev. 90, 92 comment 3 (1964).

SECTION 3-106. Sum Certain

UNIVERSAL C.I.T. CREDIT CORP. v. INGEL
196 N.E.2d 847 (Mass. 1964)
Annotated under Section 3-104, supra.

SECTION 3-118. Ambiguous Terms and Rules of Construction

UNIVERSAL C.I.T. CREDIT CORP. v. INGEL
196 N.E.2d 847 (Mass. 1964)
Annotated under Section 3-104, supra.

SECTION 3-302. Holder in Due Course

UNIVERSAL C.I.T. CREDIT CORP. v. INGEL
196 N.E.2d 847 (Mass. 1964)
Annotated under Section 3-104, supra.

SECTION 3-307. Burden of Establishing Signatures, Defenses and Due Course

UNIVERSAL C.I.T. CREDIT CORP. v. INGEL
196 N.E.2d 847 (Mass. 1964)
Annotated under Section 3-104, supra.

ARTICLE 4: BANK DEPOSITS AND COLLECTIONS

SECTION 4-202. Responsibility for Collection; When Action Seasonable

HYDROCARBON PROCESSING CORP. v. CHEMICAL BANK N.Y. TRUST CO.
209 N.E.2d 806, 262 N.Y.S.2d 482 (1965)

The defendant, a commercial bank, extended loans totaling $750,000 to Cuban Electric Corp., a Florida company operating in Cuba. These loans matured in September 1958. In September 1959 the plaintiff deposited a sight draft in the amount of $2,500 with the defendant for collection from the plaintiff's debtor-vendee in Cuba. Although the funds in payment of the draft reached a Cuban bank (Banco), they were transmitted to neither the defendant nor the plaintiff for lack of a permit from the Currency Stabilization Fund in Cuba. The defendant promptly notified the plaintiff of this impasse. The Cuban nationalization in 1960, which embraced both Banco and Cuban Electric Corp., rendered the collection from Banco virtually impossible. A month later the defendant received instructions from a depositor to credit Banco's account with $38,600. The defendant complied and then on its own initiative charged the Banco account with the $38,600 to offset the Cuban Electric Corporation's debt. It reasoned that Banco and the Cuban Electric Corp. were a single entity (Cuba) as a result of the nationalization. The plaintiff commenced this suit, alleging that the defendant, as plaintiff's collection agent, was obligated either to apply Banco's credit to its draft or to give notice of the credit so that it might act for itself. Plaintiff concluded that failure to do so made the defendant liable for the amount of the draft. The lower court agreed.

The court of appeals reversed, holding first that the propriety of defendant's appropriation of Banco's credit was irrelevant to the case and secondly, that the defendant had performed its statutory duties under both Section 5 of the Banking Collection Code (N.Y. Negotiable Instruments Law, Section 350-d) and Section 4-202 of the Code. It concluded that since the defendant had fulfilled its statutory requirements, under Section 4-202(3) of the Code it was not liable for Banco's default. The court then determined that the law levied no extra-statutory duties upon the defendant and that since it had received the new Banco credit in good faith, it was free to apply this credit for its own benefit without notifying the plaintiff.

COMMENT

The transactions which gave rise to this litigation all occurred prior to the date upon which the Code became effective in New York. See N.Y. Com-