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Article 1: General Provisions

John F. Burke

Michael L. Goldberg

UNIFORM COMMERCIAL CODE ANNOTATIONS

This section contains a digest of all reported decisions interpreting provisions of the Uniform Commercial Code published from the first week in October 1965 through the last week in November 1965 in the National Reporter System.

JOHN F. BURKE
MICHAEL L. GOLDBERG

ARTICLE 1: GENERAL PROVISIONS

SECTION 1-105. Territorial Application of the Act; Parties' Power to Choose Applicable Law

LYLES v. UNION PLANTERS NAT'L BANK
393 S.W.2d 867 (Ark. 1965)

Defendant, a Tennessee resident, purchased an automobile from a dealer in Arkansas under a conditional sales contract which was assigned to the plaintiff, a Tennessee bank. While the contract specified that the payments were to be made at the office of the dealer or his assignee, it made no mention of the law which was to govern the contract. Approximately five months after the sale, the defendant moved to Arkansas and defaulted in his payments. In a replevin action brought in Arkansas, the defendant answered that the finance charge, which both parties agreed exceeded ten per cent, was usurious under Arkansas law. The plaintiff contended that, under Section 1-105 of the Code, the validity of the transaction should be determined according to Tennessee law. The lower court, accepting the plaintiff's contention, decided there was no usury, but the supreme court reversed, holding that Arkansas law controlled.

Since the parties had not specified which law was to govern the contract, the court held that, under Arkansas law, the governing law in matters affecting the validity of the contract was that of the place where the contract was made. The court rejected the plaintiff's argument, stating that "even if it could be said that the transaction 'bears a reasonable relation' to Tennessee, nevertheless the parties did not *agree* that the law of Tennessee would govern." The failure of the parties to select Tennessee law necessitated, in the court's opinion, the application of Arkansas law.

The court cited Section 9-201 of the Code, which specifically mentions the usury law of a state as an example of non-Code law which can invalidate the terms of an otherwise valid security agreement.

COMMENT

Instead of minimizing the possibility of any reasonable relation to Tennessee and emphasing the failure of the parties to agree that Tennessee law should govern the contract, the court should have proceeded on the basis that the contract did bear a *reasonable* relation to both Arkansas and Tennessee. In that case, under Section 1-105(1), the court would have been free to apply the Arkansas Code if an *appropriate* relation to Arkansas could have been established. The fact that the contract was executed in Arkansas, that the originally designated place of payment was in Arkansas, that the plaintiff's assignor was an Arkansas company and that the defendant was an Arkansas resident at the time of the suit would seem to be sufficient to establish this *appropriate* relation to Arkansas and allow the court to interpret the contract according to the Code.

The defendant's claim of usury should have then caused the court to turn to Section 9-201 of the Code which denies validity to practices, such as usury, illegal under state law. In the face of this defense, the validity of the contract should have been determined by the non-Code law of the state. In doing so, the court would then have been forced to decide whether to apply only the usury statutes of Arkansas, or the whole law of Arkansas—including its conflict of laws rule. In the present case, however, the application of either alternative would not have changed the result.

J.F.B.

SECTION 1-210. General Definitions

CITIZENS NAT'L BANK v. FORT LEE SAV. & LOAN ASS'N [Section 1-201(19)]
213 A.2d 315 (N.J. Super. Ct. 1965) [Section 1-201(20)]
Annotated under Section 3-302, infra. [Section 1-201(25)]

ARTICLE 2: SALES

SECTION 2-302. Unconscionable Contract or Clause

WILLIAMS v. WALKER-THOMAS FURNITURE CO.
350 F.2d 445 (D.C. Cir. 1965)

Plaintiff, a retail furniture dealer, and defendant buyer executed a retail installment contract for the purchase of a stereo set in April 1962. Under the contract, the periodic payments were termed "rent" and title was to pass from the plaintiff to the defendant when the total payments equalled the purchase price. The contract provided for the plaintiff's right to repossess the goods in the event of a default in payments. Furthermore, according to the contract, if the defendant purchased an additional item while an unpaid balance remained outstanding on an earlier purchase, all future payments were to be credited pro-rata to the balance remaining in each account. The court ruled that the effect of this provision was to keep a balance due on every item purchased until the balance due on all items, whenever purchased, was liquidated. The defendant defaulted on a payment on the stereo set, and the plaintiff brought suit to replevy all purchases made on a series of installment contracts since 1958. The defendant claimed that the contract was unconscionable and, therefore, unenforceable. The court of general sessions granted judgment for the plaintiff, and the District of Columbia Court of Appeals affirmed on the ground that it was powerless to do otherwise in the