12th March, 1981. 1981/18

Huelin (Jersey) Limited -v- James Barker

It is clear from the pleadings in this case that there was a contract for the manufacture of eighty chairs at a price of £26 per chair and that contract was to be carried out by the plaintiff company which was not, we find, to the knowledge of the defendant, a manufacturer of furniture but for reasons best known to himself he negotiated this contract with the plaintiff company.

We are satisfied from the evidence of Mr. Fellows that Mr. Barker was warned when he enquired about chairs that in order to make a sturdy satisfactory chair suitable for bar trade, the proper way would be for each leg to be let into the full depth of each chair seat. Now, that being so, that means that the prototype chair did not carry with it any implied condition that that prototype chair was fit for the purpose of a bar chair. However, when the prototype chair was sent back and the plaintiff company widened the legs, then we think there was an implied condition that in so widening the legs they would carry out the work of widening the legs in such a way that the chair was in fact fit for use in a bar and we say this because the company already knew that the tables which they had made to Mr. Barker's satisfaction were in fact intended for use in the wine bar and the chairs were to be used in that place.

Fifty-three chairs were delivered and some time later, two or three weeks after the opening of the wine bar, Mr. Barker first complained. The acceptance of the fifty-three chairs was, we think, conditional and we think that two or three weeks was a reasonable time within which Mr. Barker was able to find out whether the chairs were suitable for his purpises or not and therefore as regards the fifty-three delivered chairs, we find that he had not accepted them at that stage. When he complained that even with the wide base of the chairs, they were still unstable and coming apart, a number of them were repaired by the plaintiff company. We think that they repaired them in an insufficient and unworkmanlike manner. They should have bevelled the end of each of those chair legs which were going to be fitted into the chair seats. Of these repaired chairs a number were sent back to the defendant so that in the end, taking into account further chairs that he had sent back to the plaintiff company, he had forty-three chairs including some which had not been repaired, whereas previously he had had, as I have said, fifty-three which had been delivered at or near the time of the opening of the wine bar. He had therefore rejected a further ten chairs, but nevertheless it was still a conditional acceptance on the repaired chairs being fit for the purpose for which they were ordered. However a contract is not severable and

therefore acceptance of one chair alone, would mean that the whole contract had to be paid for and removed the right of the defendant to reject the contract. We are satisfied from the evidence of the defendant himself and also from Mr. Saville and Mr. Pallot, that as late as two months ago there were about twenty chairs of the type we have been discussing on the premises of the defendant. We think that the period of time which elapsed from the return of the repaired chairs to him and that time of two months ago indicates that he had in fact accepted at least twenty of the chairs of the contract. That being so and the contract not being severable as I have already said, he cannot reject the contract as a whole and must pay for all the chairs.

We therefore find for the plaintiff company but we also, in view of our finding as to the standard of the repairs, hope that they may find it possible to put matters right by negotiation with the defendant, but that is no more than a hope and we cannot and do not make any order in that respect.

As regards the costs, we think it right that there should be no order for costs.