JC Smiths The Law of Contract 3rd edition Davies Test Bank

SKU: 9780192595096-TEST-BANK

Chapter 2 Objectivity in contract law

Type: multiple choice question
Title: Chapter 02 - Question **01**
01) Which of the following reasons are valid justifications for the general adoption of the objective approach in contract law?
***a.** The objective approach promotes certainty.
Feedback: If any other approach were adopted, no one could ever act safely on a contract which they reasonably believed they had made, since there would always be the possibility that the other party might be under some undisclosed, undiscoverable misapprehension as to the existence or nature or effect of the contract.
Page reference: Introduction
b. The objective approach allows for a wider range of evidence to be admissible in court.
Feedback: The objective approach simply means that the intentions of the parties are
c. Courts are used to applying the objective approach and would be unable to change their approach.
Feedback: An appeal to history is a weak justification for the continued retention of the objective approach. A better reason is that objectivity promotes certainty.
d. None of the options provided is correct.
Feedback: The objective approach is justified because it promotes certainty.

Type: multiple choice question
Title: Chapter 02 - Question **02**
02) When will 'snapping up' an offer not lead to an enforceable contract?
***a.** Accepting an offer that was obviously made by mistake
Feedback: In *Hartog v Colin and Shields*, the defendants stated an absurdly low price for goods by mistake and the claimants 'snapped up' the offer by purchasing the goods. The contract was later held to be unenforceable because the claimants could not in good faith say that they thought the defendants intended to be bound by the offer.
Page reference: Section 2.2
b. Accepting an offer made by a consumer
Feedback: *Hartog v Colin and Shields* is a general rule of contract law and does not provide any particular protection for consumers. A consumer can only rely on the case as much as a commercial party: he must show that the counterparty could not in good faith say that they thought the defendants intended to be bound by the offer.
c. Accepting an offer that has been individually negotiated.
Feedback: *Hartog v Colin and Shields* itself involved a negotiated contract. But that is the trigger for the rule in the case. Rather, the contract was held to be unenforceable because the claimants could not in good faith say that they thought the defendants intended to be bound by the offer.
d. None of the options given is correct.
Feedback: 'Snapping up' an offer refers to accepting an offer that was obviously made by mistake.

Type: multiple choice question
Title: Chapter 02 - Question **03**
03) Why did the court in *Raffles v Wichelhaus* hold that there was no valid contract between the parties?
***a.** The ambiguity in the contract was the fault of neither party and each party had a different understanding of the agreement.
Feedback: Both parties did not know that there were two ships which met the description stated in their contract so the ambiguity was not the responsibility of one rather than the other. It was impossible to determine which ship was the subject of the contract, so the contract could not be performed.
Page reference: Section 2.3
b. The contract failed to satisfy the requirement of formality.
Feedback: The contract was actually objectively ambiguous.
c. The conduct of the parties would have led a reasonable person to believe that they did not intend to form a contract.

OXFORD UNIVERSITY PRESS

© Oxford University Press, 2021.

JC Smiths The Law of Contract 3rd edition Davies Test Bank

Feedback: It was the objectively ambiguous words of the written contract and not the conduct of the parties which caused difficulties in *Raffles* and led a court to hold that the contract was not valid.
d. None of the options provided is correct.
Feedback: The court held that the contract was unenforceable because the ambiguity in the written contract could not be attributed to either party and neither side could enforce their own interpretation of any agreement.

Type: multiple choice question
Title: Chapter 02 - Question **04**
04) Why was the defendant in *Smith v Hughes* not liable to pay the contract price for the new oats?
a. Old oats were discussed before the oral contract was concluded.
Feedback: This is one of the hypothesis on which the case should be considered. If this was the case, then the jury was correct in finding the defendant not liable as claimant should have supplied old oats. However, it is only one of the possible hypotheses: options b) and c) set out the other two hypotheses
Page reference: Section 2.4
b. Old oats were not discussed but the seller knew that the buyer believed that the oats were in fact old.
Feedback: This is one of the hypothesis on which the case should be considered. If this was the case, then the court held that the jury was wrong in their verdict. So long as the seller did not induce or encourage the mistake, the seller could take advantage of it. However, it is only one of the possible hypotheses: options a) and c) set out the other two hypotheses
c. The seller knew that the buyer was contracting for old oats.
Feedback: This is one of the hypothesis on which the case should be considered. If this was the case, then the jury's verdict was right. However, it is only one of the possible hypotheses: options a) and b) set out the other two hypotheses. The difference between option b) and this option is that here the mistake is as to the terms of the contract, rather than a mistake as to fact or motive.
***d.** All of the options provided are correct.
Feedback: The case is difficult because there were unresolved questions of fact, so it is necessary to understand the case by reference to all three of the above hypotheses.

Type: true-false
Title: Chapter 02 - Question **05**
05) A signed contract will only be enforceable if it is established that both parties have actually read and understood its terms.
a. True
Feedback: The rule established in *L'Estrange v Graucob* states that 'When a document containing contractual terms is signed, then, in the absence of fraud, or ... misrepresentation, the party signing it is bound and it is wholly immaterial whether he has read the document or not.' This rule is considered in further detail in Chapter 11.
Page reference: Section 2.5
***b.** False
Feedback: The rule established in *L'Estrange v Graucob* states that 'When a document containing contractual terms is signed, then, in the absence of fraud, or ... misrepresentation, the party signing it is bound and it is wholly immaterial whether he has read the document or not.' This rule is consideredin further detail in Chapter 11.

Type: multiple choice question
Title: Chapter 02 - Question **06**
06) How are the words and conduct of a contracting party generally assessed?
a. By reference to a reasonable person in that party's own position
Feedback: If words and conduct were assessed from the issuing party's own position, that might reflect a subjective approach. Objectivity is generally assessed from the position of the recipient.
Page reference: Section 2.7
***b.** By reference to a reasonable person in the addressee's position

OXFORD UNIVERSITY PRESS

© Oxford University Press, 2021.

JC Smiths The Law of Contract 3rd edition Davies Test Bank

Feedback: In *Destiny 1 Ltd v Lloyds TSB Bank Plc*, Moore-Bick LJ emphasised that 'communications, whether oral or written, are to be understood in the way that a reasonable person in the position of the recipient would have understood them.'
c. By reference to a reasonable person who is entirely detached from the proceedings
Feedback: Although this approach was favoured in the case of *Upton on Severn UDC v Powell*, the better view is that objectivity should be assessed from the position of the recipient in order to protect the expectations of a party who relies in good faith upon an objectively reasonable interpretation of the other party's words and conduct.
d. None of the options provided is correct.
Feedback: In *Destiny 1 Ltd v Lloyds TSB Bank Plc*, Moore-Bick LJ emphasised that 'communications, whether oral or written, are to be understood in the way that a reasonable person in the position of the recipient would have understood them.'

OXFORD
UNIVERSITY PRESS

© Oxford University Press, 2021.

JC Smiths The Law of Contract 3rd edition Davies Test Bank