LL4276/LL5276/LL6276  Advanced Contract Law

Syllabus

1. Contract Theory, writing research papers

2. Enforceability:
   - The meaning of contractual intention;
   - Objectivity and mistake
   - Consideration: justification or abolition?
   - Promissory estoppel: shield or sword?

3. Damages:
   - Remoteness: assumption of responsibility v. foreseeability – the same difference?
   - Mitigation: your liability but my duty?
   - What loss is recognized and how loss is measured?
   - Account of profits/ disgorgement: why and when?

4. Performance:
   - Performance: should this be the primary or secondary remedy?
   - When are damages ‘inadequate’? Should land contracts always be specifically enforceable?
   - Personal services: why are they not specifically enforceable?
   - Agreed remedies: how far are and how far should they be enforced?

5. Contents of contract:
   - Interpretation: test, how much information can be taken into account
   - Rectification: just an exercise in interpretation?
   - Implied terms: just an exercise in interpretation?
   - Is there and should there be an implied duty of good faith performance?

6. Unfair terms
   - Does and should contract law care about substantive unfairness?
   - Unfair Contract Terms Act: what does the test of reasonableness mean?
   - Consumer Protection (Fair Trading) Act 2003: How does this advance the common law protection?

7. Vitiation I:
   - Misrepresentation: the nature of no reliance clauses?
   - Duress: what is the scope of impermissible coercion?
   - Undue influence: Singaporean cases 2/3 party cases
   - Unconscionable bargain: does it exist? Should it?

8. Ending and changing contracts-
   - When should breach allow the innocent party to terminate? What should be the effect of termination?
   - Should the law step in when circumstances change? If so, when and how?

9. Presentations of outlines for research papers, brainstorming
Reading List:


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Barnes, M (2011), ‘Estoppels as Swords’, *LMCLQ* 372


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Rowan, S (2010), ‘For the Recognition of Remedial Terms Agreed Inter Partes’ 126 LQR 448.


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Collins, H (2014), 'Implied Terms: The Foundation in Good Faith and Fair Dealing' Current Legal Problems 1

Buxton, R (2010), '“Construction” and Rectification after Chartbrook', 69 CLJ 253.

Kramer, K (2003), 'Common Sense Principles of Contract Interpretation (and how we’ve been using them all along)', 23 OJLS 173.


McMeel, G (2003), 'Prior Negotiations and Subsequent Conduct—the Next Step Forward for Contractual Interpretation', 119 LQR 272.

Lord Nicholls (2005), 'My Kingdom for a Horse: The Meaning of Words', 121 LQR 577.


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Chen-Wishart, M “Controlling Unfair Terms: Protecting the Institution of Contract”, in English and European Perspectives on Contract and Commercial Law, eds L Gullifer and S Vogenaur, Hart 2015, 105-130

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(Clarendon Press).


Chen-Wishart, M (2006), ‘Undue Influence: Beyond Impaired Consent and Wrong-Doing, Towards a Relational Analysis’ in A Burrows and A Rodger (eds), Mapping the Law: Essays in Memory of Peter Birks (OUP) 201.


SA Smith “In defence of substantive unfairness” (1996) 112 LQR


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