



## COMMUNICATION IN CONTRACT LAW

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### INTRODUCTION

Communication is at the heart of any agreement that subsequently becomes a contract; it expresses our willingness to accept or reject an offer. Communication is also crucial in the cancellation or acceptance of an offer. Acceptance, due contemplation, consensus ad idem, intention, and other elements of a contract are incomplete without effective communication, and even if communication of one of these elements is not absolute, the agreement will be declared void on the basis of ambiguity. If any of these items are not done properly in accordance with the ICA, 1872, legal consequences may result. It becomes an agreement after the offer and acceptance are communicated, but before that, the contracting parties have the option of revocation of offer, which is crucial in determining the outcome of the offer or acceptance.

### RESEARCH METHADODOLOGY

The method of “DOCTRINAL METHOD” has been used to analyse the facts and work on the further research with the help of existing articles and journals. Research has also been carried out by taking references from Journal Articles and Online Data Sources.

<sup>1</sup> Lalman Shukla vs. Gauri Dutt, 1913 40 ALJ 489 - Law Times Journal Lalman Shukla v. Gauri Dutta, Law Times

## LITERATURE REVIEW

### • Importance of communication in contract law – Ishaan Saluja- Legal service India E-journal :

The article summarises the importance of communication in contract law. It states communication is required both when the proposal is made and also when that proposal is accepted, thus it forms the essence of both the process of proposal and acceptance. Furthermore, the study states the valid communication of both the proposal and the acceptance has some legal consequence, that is, it creates a legal binding between the parties and both can enforce it legally against each other.

### ANALYSIS

#### I. Communication of Offer

It is necessary to have knowledge of a proposal; the proposal must be conveyed or the acceptor must be aware of the proposal in order to accept it. In Lalman Shukla v Gauri Datt<sup>1</sup>, the defendant's nephew had gone missing, and the defendant had dispatched his servants to several locations in search of his nephew. The plaintiff was one of the servants, and while the search was underway, the defendant offered a reward to anyone who could locate his nephew. This was either not mentioned to the plaintiff or he was unaware of such a plan. Plaintiff tracked out his nephew and attempted to collect the funds, but was turned down. He filed a case at the Allahabad High Court, and the suit was decided in the defendant's favour. The court determined that there was never an

Journal (2022), <https://lawtimesjournal.in/lalman-shukla-vs-gauri-dutt-1913-40-alj-489/>



enforceable agreement because the acceptor was never aware of such an offer and could never express his consent without it.

“Section 4, Indian Contract Act, 1872- The communication of proposal is complete when it comes to the knowledge of the person to whom it is made.” Illustration-Y offers Z via post to sell his house for 5 million rupees. When Z will receive the post, communication of offer will be complete.

1. Express communication of offer- it happens when the offer is directly made.

- Cross offer- it occurs when the concerned parties simultaneously offer each other about the same thing without the knowledge of the other party's proposal.
- Counter offer- when the party to whom the offer is made responds with another offer by changing the terms of initial offer, it is known as counter offer.

Both of the proposals rely heavily on communication, and both of the offers are invalid. **Wrench vs. Hyde** It was a property sale case in which the defendant offered to sell his farm for a certain price (1200 pounds), which the plaintiff declined, and then the defendant reduced the price (1000 pounds) and made another offer, which the plaintiff also declined, and then the plaintiff sent his offer (950 pounds), which the defendant refused. The plaintiff subsequently agreed to buy the farm at the defendant's second offer (1000 pounds), which the defendant turned down. The plaintiff subsequently filed a court action for specific

performance. The court ruled in favour of the defendant in the case.

2. Communication of offer through service provision—it is an implicit offer through service provision. However, it has been ruled that it is not appropriate since an offer cannot be accepted in the dark; it must be revealed to the person to whom it is made. In **Taylor v Laird**, the plaintiff, who was the ship's captain, worked as a crew member, which the defendant, Laird, was unaware of. Later, the plaintiff demanded a crew member's salary, which the defendant turned down. The Court determined that there was no contractual agreement because no offer was communicated. There can be no offer, and thus no acceptance or agreement, if there is no communication. Even the implied contract necessitates agreement.

## II. Acceptance and communication

"When the person to whom the proposal is made signals his assent to it, the proposal is said to be accepted and becomes a promise," according to Section 2(b) of the Indian Contract Act of 1872.

The offer cannot be accepted unless the proposer receives notification of acceptance. The proposer must be notified of the acceptance, not any other party. The plaintiff in **Felthouse v Bindley**<sup>2</sup> was the defendant's nephew who wanted to buy the defendant's horse. The defendant wrote the plaintiff a letter of offer declaring his willingness to sell, to which the plaintiff did not respond, and the defendant ended up selling the horse. The nephew filed a lawsuit against his uncle in court, claiming ownership of the horse.

<sup>2</sup> Felthouse v Bindley - (1862),  
Lawteacher.net (2022),

<https://www.lawteacher.net/cases/felthouse-vbindley.php>



The court determined that the two parties had no duty or contract, that the horse was the defendant's property, and that the acceptance of the offer was never disclosed to the defendant. The court went on to say that silence does not equal acceptance, and that acceptance must be stated.

“Section 7, Indian Contract Act, 1872- Acceptance must be absolute. The communication of acceptance must be absolute and unqualified, should be expressed in some usual and reasonable manner in which it is to be accepted.”

The proposer also has the option to prescribe a particular manner in which it is to be accepted and if the manner so prescribed is not followed the proposer should ask the acceptor to follow the said manner, if not asked by the proposer, then it will be deemed to be accepted by the proposer.

The plaintiff accepted the defendant's offer to sell his land in **Jones v Daniel**<sup>34</sup>, but he added his own new conditions, which the defendant rejected. The Court ruled in favour of the defendant, noting that the acceptance should be communicated without any changes to the original offer, i.e., the acceptance should reflect the original offer's terms.

### III. Communication of acceptance

- **Communication of Acceptance by an Act:** This would include all forms of verbal communication, whether oral or written. This will include phone conversations, letters,

<sup>3</sup> Jones v Daniel - Case Summary - IPSA LOQUITUR, IPSA LOQUITUR (2022), <https://ipsaloquitur.com/contract-law/cases/jones-v-daniel/>

<sup>4</sup> Browse Decisions, Fourth Circuit. <https://leagle.com/images/logo.png> United States Court of Appeals & Fourth

emails, telegraphs, and other forms of contact.

- **Communication of Acceptance by Conduct:** The offeree can also express his acceptance of the offer by taking some action or acting in a certain way. As an example, when you board a bus, you are agreeing to pay the bus fare through your actions.

"As against the proposer, when it is put in course of transmission to him so as to be out of the power of acceptor; as against the acceptor, when it comes to the knowledge of the proposer," says Section 4 of the Indian Contract Act of 1872.

Example - L sends M a letter offering to sell his house for 58 million rupees. When M receives the letter, the offer will be fully communicated. The acceptance communication will be completed as against L when the letter is mailed, and as against M when L receives the letter.

In **Adams v Lindsell**, the defendant had offered to sell wool to the plaintiff via letter; owing to the wrong address of the letter it could arrive at the plaintiff's place before September 5. This also led to a delay in letter of acceptance and the same arrived on September 9 on the defendant's place and meanwhile, on 8th September, the defendant had already sold his wool to some other third party. The issue before the court was about

Circuit. United States Court of Appeals, JONES v. DANIEL | No. 13-7148. | 20131206082 | Leagle.com Leagle (2022), <https://www.leagle.com/decision/infco20131206082>



the commencement of the acceptance and, therefore, the contract.

The Court held the suit in favour of the plaintiff stating that the acceptance was complete as against the offeror the time when the letter was put to post and therefore there existed a contract between the plaintiff and the defendant and selling of wool to the third party was a breach of that contract. The court further held that the communication of acceptance was completed as against the acceptor when it comes to the knowledge of the proposer. This is considered to be a landmark judgement for **postal rule**.

Whereas when it comes to communication of acceptance via electronic devices, in India, we apply the rule which was established in **Bhagwandas Goverdhandas Kedia v Girdharilal Parshottamdas & Company and Others**. In this case, the court held that the electronic contract is made where the communication of acceptance is received by the offeror.

## JUDICIAL REVIEW

### • CASE 1 - Powell v Lee (1908) 99 LT 284<sup>5</sup>

Facts: Powell applied for the position of headmaster and was hired by the school's administrators. Powell had been accepted, according to one of them, who was acting without authorization. Later, the executives made the decision to appoint someone else. Powell then filed a lawsuit, stating that he had

suffered damages in the form of lost wages due to a breach of a contract to employ him.

Judgement: The county court judge ruled that there was no contract because no authorised communication of intent to contract had been made by the body, i.e., the managers, who were supposed to be parties to the contract. The King's Bench Division upheld the decision.

### • CASE 2 - Adams v Lindsell-<sup>6</sup>

Facts: In this case, two parties were involved in the sale of wool. The defendants wrote to the plaintiffs on September 2nd, offering to sell them particular fleeces of wool and requesting a response in the mail. The plaintiffs did not get the letter until September 5th because the defendants misdirected it. [1] The plaintiffs sent their acceptance the same day, but it did not arrive until September 9th. Meanwhile, the defendants sold the wool to someone else on September 8, after not receiving an answer by September 7 as planned. The defendants maintained that no binding contract could be formed until the answer was received, and that they were free to sell the wool to another buyer until then.

Judgement: Since that were true, Law J argued, it would be impossible to execute any contract by the mail; if the defendants were not bound by their offer until the answer was received, the plaintiffs would not be bound until they received news that the defendants had accepted, and so on forever. Instead, the

<sup>5</sup> <https://lawtimesjournal.in/powell-vs-lee/>

<sup>6</sup> Adams v Lindsell, Lawteacher.net (2022), <https://www.lawteacher.net/cases/adams-v-lindsell.php>



offerors must be considered to be making an offer to the plaintiffs at all times the letter was in the mail. Then, when the Offeree has sent his acceptance, there is a meeting of minds, which finishes the offer and puts the acceptance into action. The acceptance did not arrive in the normal route of mail (as both parties understood).

### CONCLUSION

As previously stated, communication is the foundation of any contract; without it, there can be no contract. The communication must be done correctly and should be devoid of doubts; as a result, it must be completely obvious. Because an offer and acceptance cannot exist in silence, they must be adequately communicated; otherwise, the agreement will be null and void. Furthermore, the offer must be appropriately offered, and the acceptance must be unconditional. Similarly, revocation must be properly communicated, as ineffective or late notice of revocation will render it null and void, and the first offer or acceptance will prevail. Finally, the contract is formed or comes into being at the location where the acceptance communication is received.

"Any act or omission of the party proposing, accepting, or revoking, by which he intends to communicate such proposal, acceptance, or revocation, or which has the effect of communicating it, is deemed to be made by any act or omission of the party proposing, accepting, or revoking, by which he intends to communicate such proposal, acceptance, or revocation, respectively."

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