THORNTON V. SHOE LANE PARKING LTD. (1970)

INTRODUCTION

Thornton v. Shoe Lane Parking Ltd. (1970) is one of the famous English Contract Law Case. This case was decided on 18 December, 1970 where Lord Denning MR, Megaw LJ and Sir Gordon Wilmer were the three judges who were listening this case. Thornton was the petitioner and Shoe Lane Parking was the defendant in this case.

FACTS OF THE CASE

In the above case Francis Thornton was called for the trumpet performance at the Farringdon Hall which was called by the British Broadcasting Corporation (BBC) and Thornton drove his car to the car parking i.e. Shoe Lane Parking (SLP). Outside the car parking there was a display board were only parking prices according to the parking time was mentioned and a notice was mentioned which stated – "the cars are parked at their owner's risk". Then an automatic ticket machine was there which will provide a ticket and a barrier will open/ raised. After Thornton took the ticket he drove the car and parked his car at the parking area.

It is also pertinent to mention that on the ticket in the small print it was stated – "to be issued subject to conditions displayed on the premises" which means that the condition displayed in the premises are applicable there in the parking premises. It is also pertinent to mention that inside the premises on a pillar opposite to the machine there was a notice on which is was mentioned that " the owner would not be liable for any injuries occurring in their premises" i.e. the

owner (Shoe Lane Parking) will not be responsible for any damage or injury occurred in their parking area.

Afterwards, when the performance of the Thornton was over and when he was returning back to the car parking Thornton meet with an accident and he asked for damages from the Shoe Lane Parking (SLP).

But here Shoe Lane Parking claimed that the contract is made as soon as the customer comes in the car parking that he or she (owner) is only responsible for their car parked. Shoe Lane Parking also mentioned in their argument that the ticket has a contractual document which is effectively referred to the terms which are clearly visible and mentioned on the car parking area. They also mentioned that they have taken enough and reasonable actions which can bring attention of Thornton as well as attention of all the customers who has come to park their car in their premises and SLP has trusted their exclusion clause and were not at all liable for any accident occurred in their parking lot.

After the arguments of Shoe Lane Parking Thornton argued that the notice which is outside the car parking comprises of the offer and ticket machine could not make or introduce new terms or conditions for parking their cars because the contract was already made as soon as you take the ticket from the ticket machine and there was no person on the ticket counter who can clarify the doubt of the customers. Thornton said these terms should be made or communicated before you have received the ticket i.e. when money was placed into the ticket machine then no terms of the contract should be changed.

ISSUES RAISED

1. Is the exempting condition, posted in the garage, part of the contract?
2. Does the fact that the ticket was dispensed automatically matter?

ANALYSIS

The Court of Appeal founded in this case that the exclusion clause which was made by the Shoe Lane Parking did not form part of the contract and this is the reason why the defendant was held liable and was not protected his arguments. Court also said that the instructions or terms and conditions which are made should be in such a way that the customers automatically give their attention to it. Like the terms should be in their capital letters, bold letters, red in colour or any sign should be made so that the customers would give their attention to it. But Shoe Lane Parking didn't did any of this which made them liable for the damage.

JUDGEMENT

Lord Denning MR said - " 'We have been referred to the ticket cases of former times … concerned with railways, steamships and cloakrooms where booking clerks issued tickets to customers who took them away without reading them. In those cases the issue of the ticket was regarded as an offer by the company. If the customer took it and retained it without objection, his act was regarded as an acceptance of the offer … These cases were based on the theory that the customer, on being handed the ticket, could refuse it and decline to enter into a contract on those terms. He could ask for his money back. That theory was, of course, a fiction. No customer in a thousand ever read the conditions. If he had stopped to do so, he would have missed the train or boat[1].

None of those cases has any application to a ticket which is issued by an automatic machine. The customer pays his money and gets a ticket. He cannot refuse it. He cannot get his money back. He may protest to the machine, even

[1]Thornton v Shoe Lane Parking Ltd., [1971] 2 QB 163

swear at it; but it will remain unmoved. He is committed beyond recall. The terms of the offer are contained in the notice placed on or near the machine stating what is offered for the money. The customer is bound by those terms as long as they are sufficiently brought to his notice beforehand, but not otherwise. He is not bound by the terms printed on the ticket if they differ from the notice, because the ticket comes too late. The contract has already been made. In this case the offer was in the notice at the entrance and was accepted when Thornton drove to the entrance and 'by the movement of his car, turned the light from red to green, and the ticket was thrust at him. The contract was then concluded, and it could not be altered by any words printed on the ticket itself. …"

Lord Justice Megawsaid that the customer of the Shoe Lane knew that there was something written at the bottom of the ticket but because he didn't pay much attention to it he didn't know what was the instructions or terms for parking their car. Megawby concluding he said – "It does not take much imagination to picture the indignation of the defendants if their potential customers, having taken their tickets and observed the reference therein to the other to contractual conditions which, they said, could be seen in notices on the premises, were one after the other to get out of their cars, leaving the cars blocking the entrances to the garage, in order to search for, find and peruse the notices! Yet unless the defendants genuinely intended that potential customers should do just that, it would be a fiction, if not a farce, to treat those customers as persons who have been given a fair opportunity, before the contracts are made, of discovering the conditions by which they are to be bound".

Sir Gordon Wilmer said the same things which the other judges i.e. Lord Denningand Lord Megawsaid. Hence, later it was held that SLP has not done

their level best for the existing terms and conditions of parking and to bring Thornton's attention before coming into the contract formation. The offer which continued within the notice at the entrance and Thornton accepted it and drove in the car. So, it was too late for Thornton to incorporate the terms after he drove in the parking area.