

# Anglo-American Contract and Torts

Prof. Mark P. Gergen

## 19. Statute of Frauds

# Obligation in contract requires

- 1) Manifested intent to undertake the obligation.
- 2) A legal basis for enforcing the obligation (e.g., consideration)
- 3) Sometimes written evidence of the obligation under the statute of frauds.

Types of agreements “within” the statute include (there are others) . . .

A sale or other conveyance of an interest in land (with an exception for short-term leases). Text 145 top.

A sale of goods of sufficient price--10 pounds in Statute of 1677. Now \$500 under UCC § 2-201. Text 145 bottom.

Statute provides a defense to a claim on a contract if there is not sufficient written evidence of the contract.

Section b Text 146 indicates there is a difference on what it takes to satisfy the statute.

UCC 2-201 takes a minimalist approach. Any writing signed by the party trying to assert the statute as a defense that is “sufficient to indicate that a contract for sale has been made . . .” Only the quantity need appear in the writing.

Often in real estate law there is a requirement that the writing state the “essential terms.”

Purposes served by the statute of frauds and by contract formalities more generally . . .

- Evidentiary
- Cautionary
- Channeling

These purposes assume legal formalities enable people to determine their legal obligations for themselves.

Statute of frauds provides a defense to an otherwise enforceable agreement for a contract “within the statute” in the absence of a writing “to satisfy” the statute.

UCC 2-201(3)(Text 145-146) provides several grounds to overcome the defense:

- By admission
- Part performance (payment made and accepted or goods received and accepted)
- Substantial investment in specially manufactured goods

Two of these exceptions can be explained on evidentiary grounds. The last exception brings to mind a non-statutory exception with another rationale . . .

*Goldstein v. McNeil* (Cal. App. 1954), Text 147 (pre-dates enactment of UCC).

Oral sales agreement for 14 used cars for a price of \$29,450. The buyer (the defendant) paid the seller (the plaintiff) \$910 for shipping costs. The seller spent \$210 on permits and shipped the cars to California.

Held defendant was estopped from asserting statute of frauds as a defense because of plaintiff's change of position and inequity ("unconscionable loss") that would result from enforcing statute.

The loss was due to the drop in the price of used cars!

*Goldstein v. McNeil* (Cal. App. 1954)

Oral sales agreement for 14 used cars for a price of \$29,450. The buyer (the defendant) paid the seller (the plaintiff) \$910 for shipping costs. The seller spent \$210 on permits and shipped the cars to California.

The claim was not within the statutory exceptions, which required that the goods be received and accepted or that the buyer have made part payment for the goods. See Text 147 top for provisions. Estoppel is a non-statutory exception.

# Obligation in contract requires

- 1) Manifested intent to undertake the obligation.
- 2) A legal basis for enforcing the obligation (e.g., consideration)
- 3) Sometimes written evidence of the obligation under the statute of frauds.

**In the US reliance—perhaps even a foregone opportunity—can supply 2) and overcome 3).**