

Written Brief

Due: March 14, 2013

Business Law

By Jahleel Felix

Buyer v. Gloria, Inc.,
New York State Court
692 M.9d 613 (2013)

FACTS On November 15, Gloria, Inc., a manufacturer of crystal ware, mailed to Benny Buyer a letter offering to sell to Buyer 100 hundred crystal "A" goblets at \$10 per goblet and stated that "the offer would remain open for fifteen (15) days." On November 18, Gloria, noticing the sudden rise in the price of crystal "A" goblets, decided to withdraw her offer to Buyer and so notified Buyer. Buyer chose to ignore Gloria's letter of revocation and gleefully watched as the price of crystal "A" goblets continued to skyrocket. On November 30, Buyer mailed to Gloria a letter accepting Gloria's offer to sell the goblets. The letter was received by Gloria on December 4. Buyer demands delivery of the goblets.

ISSUE 1. Can Buyer sue Gloria for Breach of contract? 2. Can Buyer sue Gloria for revocation of an offer? 3. Can Gloria revoke an offer that was written in letter form and stated that, "the offer would remain open for fifteen (15) days."?

DECISION 1. Yes. 2. Yes 3. No

REASON 1) A valid contract exist: The elements of a valid contract are met for the UCC (where there is sufficiency in agreement) [§ 2-204]¹. Gloria did not perform duty as stated in offer therefore Buyer can sue Gloria. 2) Buyer communicated his form of acceptance through mail within the time stated in the offeror's letter and the goblets were not delivered. Acceptance is valid upon dispatch and can be made by any reasonable means [UCC 2-206(1), 2A-206(1)]². Buyer accepted the offer before Gloria can 3 revoke her offer. Therefore Buyer can sue Gloria for revocation of an offer. 3) Though Gloria attempted to revoke her offer by communicating it to the offeree, under the U.C.C., when a firm offer arises, the merchant's firm offer is irrevocable without the necessity of consideration for the stated period or reasonable period [UCC 2-205, 2A-205]³.

¹ Clarkson, Miller, Cross, 12th Edition Business Law Text and Cases (Mason: Cengage Learning, 2012,2009), A-20

^{2,3} Clarkson, Miller, Cross, 12th Edition Business Law Text and Cases (Mason: Cengage Learning, 2012,2009),365

CASE ANALYSIS & DECISION

On **November 15th**, Gloria Inc., **mailed a letter** to Benny Buyer.

Who & What : Gloria Inc., manufacturer of crystal ware offered to sell to Benny Buyer 100 crystal "A" goblets at \$10 per goblet and stated that "the offer would remain open for fifteen (15) days."

The offeror here is Gloria which means Buyer becomes the Offeree. The item(s) being offered at sale is "100" Crystal "A" goblets. In addition, there is a specific quantity and a unique product being offered at sale. 100 crystal "A" goblets are for sale at \$10 per goblet and this offer would remain open for fifteen (15) days as quoted in the letter. Here there is specific price and time specification.

Here are the facts according to the above statement

- **Offer:** 100 crystal "A" goblets at \$10 per goblet
- **Offeror:** Gloria Inc.
- **Offeree:** Benny Buyer
- **Price Specification:** \$10/goblet
- **Time Specification:** Offer remains open for 15 days from November 15th

On November 18, Gloria, noticing the sudden rise in the price of crystal "A" goblets, decided to withdraw her offer to Buyer and so notified Buyer. Buyer chose to ignore Gloria's letter of revocation and gleefully watched as the price of crystal "A" goblets continued to skyrocket. On November 30, Buyer mailed to Gloria a letter accepting Gloria's offer to sell the goblets. The letter was received by Gloria on December 4. Buyer demands delivery of the goblets.

Here on November 18th, (3) days after sending her letter offering the sale of 100 crystal "A" goblets at \$10 each, Gloria notified Buyer by letter that she revoked her offer. Buyer received Gloria's letter of revocation but ignored it and decided to go through with the offer. On the 15th day (last day offer is open), Buyer mailed Gloria a letter accepting the offer. Gloria received the letter on December 4th.

Here are the facts according to the above statement

- **Time offer was withdrawn:** November 18th
- **Notification of revocation:** November 18th
- **Notification of revocation received:** presumably before November 30th
- **Notification of acceptance sent:** November 30th
- **Notification of acceptance received:** December 4th
- **Transportation mode of acceptance:** Mail

Issue 1: Can Buyer sue Gloria for Breach of contract?

In order for a contract to be breached, a contract must have existed. This is a case of Offer and Acceptance. In the formation of a contract for the sale of goods under the U.C.C., [§ 2-204]⁴:

- 1 A contract for sale of goods may be made in any manner sufficient to show agreement, including offer and acceptance, conduct by both parties which recognizes the existence of a contract.

A valid contract exist: The elements of a valid contract are met for the UCC (where there is sufficiency in agreement) [§ 2-204]. Gloria did not perform duty as stated in offer therefore Buyer can sue Gloria for breaching contract. It is evident that the delivery was not made.

Issue 2: Can Buyer sue Gloria for revocation of an offer?

In order for Buyer to sue Gloria for revocation of an offer, the offer must be irrevocable. Under the U.C.C. an offer is irrevocable if it is a merchant's firm offer. Under [§ 2-205] of the U.C.C.:

"An offer by a merchant to buy or sell goods in a signed record that by its terms gives assurance that it will be held open is

not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but in no event may the period of irrevocability exceed three months. Any such term of assurance in a form supplied by the offeree must be separately signed by the offeror."⁵

Additionally a merchant is defined as the following under the code: [§ 2-104]

"(1) **"Merchant"** means a person that deals in goods of the kind or otherwise holds itself out by occupation as having knowledge or skill peculiar to the practices or goods involved in the transaction or to which the knowledge or skill may be attributed by the person's employment of an agent or broker or other intermediary that holds itself out by occupation as having the knowledge or skill."⁶

Gloria Inc. is the merchant holding an occupation dealing with the sale of crystal ware. Gloria Inc. gave Benny Buyer assurance that the offer would be held open for a period of 15 days after date of notice (November 15th). Within this time period, the offer is irrevocable. Buyer communicated his form of acceptance through mail within the time stated in the offeror's letter and the goblets were not delivered. Acceptance is valid upon dispatch and can be made by any reasonable means [UCC 2-206(1), 2A-206(1)].⁷ If evidence of revocation exists within this time, a lawsuit can be filed against merchant for revocation.

Issue 3: Can Gloria revoke an offer that was written in letter form and stated that, "the offer would remain open for fifteen (15) days."?

In order for Gloria to revoke an offer, a contract must be made under common law in which "the offeror can revoke the offer (even if he or she has promised to keep it open) as long as the revocation is communicated to the offeree before the offeree accepts."⁸ However, Gloria is a merchant and has made a firm offer under the U.C.C. Under the U.C.C., firm offers are

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⁶ UNIFORM COMMERCIAL CODE, <http://www.law.cornell.edu/ucc/2/article2.htm> (December 2011).

^{7,9} Clarkson, Miller, Cross, 12th Edition Business Law Text and Cases (Mason: Cengage Learning, 2012,2009),365

⁸ Clarkson, Miller, Cross, 12th Edition Business Law Text and Cases (Mason: Cengage Learning, 2012,2009),229

irrevocable when a merchant-offeror gives assurances in a signed writing that the offer will remain open. Though Gloria attempted to revoke her offer by communicating it to the offeree, under the U.C.C., when a firm offer arises, the merchant's firm offer is irrevocable without the necessity of consideration for the stated period or reasonable period [UCC 2-205, 2A-205]⁹.

Based on all of the above, Judgment is granted in favor for the plaintiff (Benny Buyer).

Bibliography

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