

Felthouse v Bindley (1862) 142 ER 1037

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Facts

- Paul Felthouse offered to buy a horse from his nephew, writing an offer which stated "if I hear no more about him, I consider this horse mine for £30 15s"
- The nephew (also called Felthouse) never responded to his offer but did actually intend to sell the horse to his uncle. So the nephew told the auctioneer, Bindley, not to sell the horse.
- Bindley forgot about this conversation and sold the horse at auction for £33 to another person.
- Paul Felthouse (the uncle) sued Bindley for conversion, stating it was his horse.

Issue

- Had the offer been accepted through the nephew's lack of communication?

Held

- Willes J held that although the nephew, in his own mind, had intended to accept the offer, he had not actually done so and therefore the horse did not belong to the uncle.
- The uncle had no right to impose a condition that the offer was accepted unless communicated otherwise.
- Therefore, in the absence of any positive action, there was no sale and the charge of conversion could not succeed.

Significance

- This case demonstrates the principle that silence cannot constitute acceptance.

Quotes

- "[The nephew] had not communicated such his intention to his uncle, or done anything to bind himself. Nothing, therefore, had been done to vest the property in the horse in the plaintiff down to the 25th of February, when the horse was sold by the defendant. It appears to me that, independently of the subsequent letters, there had been no bargain to pass the property in the horse to the plaintiff, and therefore that he had no right to complain of the sale." (Willes J)

Full text

- Full text is available at: <https://www.bailii.org/ew/cases/EWHC/CP/1862/J35.html>

Law case summary from www.lawcasesummaries.com