

Great Peace Shipping Ltd v Tsavliris Salvage (Intl) Ltd [2003] QB 679

<http://lawcasesummaries.com/knowledge-base/great-peace-shipping-ltd-v-tsavliris-salvage-intl-ltd-2003-qb-679/>

Facts

- Tsavliris were advised there was a ship in trouble at a certain location
- They were told that the 'Great Pearce' was about 35 miles away, so they engaged their services
- However it soon became apparent that the Great Pearce was not 35 miles away, and was in fact more like 410 miles away.
- Tsavliris then engaged the services of another, closer tug boat and attempted to have the contract void for common mistake.

Held

- The mistake was not fundamental or severe enough to justify the contract being void for mistake
- Though it took 22 not 5 hours, the basis of the contract was more or less the same
- It could not be said that "this was not the contract I entered into" – they were not "essentially different" agreements
- *McRae* was approved
- They said for common mistake to void the contract the following must apply; 1) there must be a common assumption as to the state of affairs 2) there must be no warranty by either party that the state of affairs exists, 3) the non-existence of the state of affairs must not be attributable to the fault of either party, 4) the non-existence of the state of affairs must render performance of the contract impossible, 5) the state of affairs must be crucial to the contract
- While an implied term doesn't solve everything, construction of the contract is very important
- If one party has agreed that there is a risk it may not exist then they cannot recover
- Further proven because they did not cancel it as soon as they could
- Equity does not provide relief when common law will not provide relief (direct opposite to *Solle v Butcher*)

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