

NEW YORK COURT OF APPEALS

Rathbun v. Citizens' Steamboat Co.

76 N.Y. 376 (N.Y. 1879) · Decided March 18, 1879

SUMMARY

The New York Court of Appeals considered whether a carrier became liable after accepting a customer's check instead of collecting cash for C.O.D. goods. The court held that the consignors' unconditional acceptance of the check ratified the carrier's conduct and assumed the risk that the check would not be paid. The judgment was affirmed.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Church; Andrews, J. (not voting)
JURISDICTION	New York
DECIDED	March 18, 1879
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment rejecting their claim for damages based on the defendant carrier's acceptance of a check instead of collecting cash on delivery. The Court of Appeals affirmed.
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion
PARTIES	Rathbun v. Citizens' Steamboat Co.

TOPICS

contracts commercial commercial litigation waiver of breach

PRACTICE AREAS

Contracts Commercial law Agency and ratification

QUESTIONS PRESENTED

- Whether plaintiffs' unconditional acceptance of the check waived the defendant carrier's contractual obligation to collect and remit the cash.
- Whether plaintiffs' acceptance of the check ratified the carrier's unauthorized receipt of the check in lieu of money despite plaintiffs' lack of knowledge concerning the drawer's funds or solvency.

3. Whether the circumstances were controlled by the rule governing a note or check received for an antecedent debt.

HOLDINGS

1. Plaintiffs' unconditional acceptance of the check waived the requirement that the defendant collect the money and constituted acceptance of the check in lieu of cash.
2. Plaintiffs' unqualified acceptance of the check ratified and adopted the carrier's act, and plaintiffs assumed the risk that the check would not be paid when presented.
3. The rule that a check received for a pre-existing debt is not payment absent an agreement to that effect did not apply because no antecedent debt existed.

KEY QUOTATIONS

"But a ratification when fairly made, is equal to an original authority." (at 379)

"By an unqualified acceptance they gave the carrier to understand that they adopted his act." (at 380)

"The circumstances here are capable of but one construction according to the mode and habits of business, and that is, that the plaintiffs adopted and ratified the act of the carrier, by the unqualified acceptance of the check." (at 381)

FACTUAL BACKGROUND

Plaintiffs consigned personal property to Van Alstyne through the defendant, marking the shipment cash on delivery for \$94.28. The defendant delivered the property, accepted Van Alstyne's check payable to plaintiffs instead of cash, and delivered the check to plaintiffs. Plaintiffs unconditionally accepted the check and sent it for collection, but it was returned protested.

PROCEDURAL HISTORY

The Marine Court entered judgment for the plaintiffs after a trial without a jury. The General Term of the Marine Court affirmed, but the General Term of the Court of Common Pleas reversed. The New York Court of Appeals affirmed the judgment under review.

DISPOSITION

affirmed

CASES CITED

- Nixon v. Palmer, 8 N.Y. 401
- Seymour v. Wyckoff, 10 N.Y. 224
- Brooks v. Express Co., 14 Hun. 364
- Walker v. Walker, 5 Heiskell's R. 425

