Chapter 12 - Answers to Problems

1. In consideration of $800 paid to him by Joyce, Hill gave Joyce a written option to purchase his house for $80,000 on or before April 1. Prior to April 1, Hill verbally agreed to extend the option until July 1. On May 18, Hill, known to Joyce, sold the house to Gray, who was ignorant of the unrecorded option. Joyce brought suit against Hill. Decision?

Answer: Bargained-for Exchange. Decision for Hill. Consideration was paid to Hill for holding the property for the specified time subject to the right of Joyce to exercise the option whether to buy or not. When the time limit expired, the contract was at an end and the right under the option was extinguished. Of course, if that right were extended by some valid binding agreement, then it could be enforced. Joyce did not attempt to exercise the option and complete a contract of purchase within the time limited by the written agreement.

It is true that before the expiration of the time stated, Hill verbally agreed or promised to extend the time for the exercise of the option from April 1 to July 1, and that it was within this latter or extended period and after the property had been sold and conveyed to Gray that Joyce presented himself ready to accept the property and pay the price. However, such acceptance came too late. There was no consideration for the verbal promise or agreement to extend the time, and such promise was therefore not enforceable. After April 1 the verbal agreement operated simply as a mere offer continuing until withdrawn or otherwise ended by some act of the offeror, Hill. The sale to Gray was known to Joyce and resulted in a revocation of the offer.

2. George owed Keith $800 on a personal loan. Neither the amount of the debt nor George's liability to pay the $800 was disputed. Keith had also rendered services as a carpenter to George without any agreement as to the price to be paid. When the work was completed, an honest and reasonable difference of opinion developed between George and Keith with respect to the value of Keith's services. Upon receiving from Keith a bill of $600 for the carpentry services, George mailed a properly stamped and addressed envelope his check for $800 to Keith. In an accompanying letter, George stated that the enclosed check was in full settlement of both claims. Keith indorsed and cashed the check. Thereafter, Keith unsuccessfully sought to collect from George an alleged unpaid balance of $600. Keith then sued George for $600. Decision?

Answer: Settlement of Disputed/Undisputed Debts. Decision, in part, in favor of Keith. This common law problem presents questions attending the payment or settlement of (1) a past due, undisputed or liquidated debt and (2) a disputed debt. In Pinnel's Case, 5 Coke 117, and Cumbrer v. Wyne, 1 Strange, 426, the question presented and decided was "that payment of a lesser sum on the day in satisfaction of a greater, cannot be in satisfaction for the whole," although the parties agreed that such payment should satisfy the whole. An accord and satisfaction is a contract and like any other contract must be supported by a valid consideration. Consideration consists of a benefit to the promisor or a detriment to the promisee. Because of the past due undisputed debt, George was under legal obligation to pay $800. By paying $800 in full settlement of both obligations, George did not suffer a legal detriment as to the second (carpentry) contract. George merely did something which he was already legally bound to do. The payment of the $800 discharged the undisputed obligation but, since it did not constitute consideration for the disputed debt, that debt remains. In short, Keith still had a claim for $600 which George could, of course, contest, as to the amount. Had George paid an amount greater than $800, he would have a better argument as to settlement of both debts.

3. The Snyder Mfg. Co. being a large user of coal, entered into separate contracts with several coal companies. In each contract it was agreed that the coal company would supply coal during the year 1989 in such amounts as the manufacturing company might desire to order, at a price of $49 per ton. In February 1989, the Snyder Company ordered 1,000 tons of coal from Union Coal Company, one of the contracting parties. Union Coal Company delivered 500 tons of the order and then notified Snyder Company that no more deliveries would be made and that it denied any obligation under the contract. In an action by Union Coal to collect $49 per ton for the 500 tons of coal delivered, Snyder files a counterclaim, claiming damages of $1,500 for failure to deliver the additional 500 tons of the order and damages of $4,000 for breach of agreement to deliver coal during the balance of the year. Decision?

Answer: Illusory Promises. Decision in favor of Union Coal Company. Snyder Mfg. Co. owes Union the rate of $49 per ton for 500 tons of coal already delivered. Moreover, the alleged contracts, to the extent executory, are probably not binding on either party. These agreements to supply Snyder with such amounts of coal as "it might desire to order" contain illusory promises. Snyder did not agree to order or to buy any coal. It was therefore not contractually bound to do so. Where one party to an agreement is not bound, neither party is bound. Even though the contracts come within the UCC, its good faith provisions could, but probably would not validate these illusory promises. Furthermore, these alleged contracts would not constitute requirements contracts.
Discuss and explain whether there is valid consideration for each of the following promises:

(a) A and B entered into a contract for the purchase and sale of goods. A subsequently promised to pay a higher price for the goods when B refused to deliver at the contract price.

(b) A promised in writing to pay a debt, which was due from B to C, on C’s agreement to extend the time of payment for one year.

(c) A executed a promissory note to her son, B, solely in consideration of past services rendered to A by B, for which there had been no agreement or request to pay.

Answer: Pre-existing Contractual Obligation. (a) At common law there would be no legally sufficient consideration. A’s promise to pay a higher price is not supported by anything other than what B had already agreed to do. The consideration on the part of the promissee does not involve any legal detriment to him. However, under Section 2-209 (1) of the Code, the new agreement would be binding without consideration if it was entered into voluntarily and in good faith.

(b) Valid consideration. Agreement to extend the time of payment is a legal detriment.

(c) No valid consideration. In general, past consideration is no consideration.

Alan purchased shoes from Barbara on open account. Barbara sent Alan a bill for $10,000. Alan wrote back that 200 pairs of the shoes were defective and offered to pay $6,000 and give Barbara his promissory note for $1,000. Barbara accepted the offer, and Alan sent his check for $6,000 and his note, in accordance with the agreement. Barbara cashed the check, collected on the note, and one month later sued Alan for $3,000. Decision?

Answer: Settlement of a Disputed Debt. Decision in favor of Alan and against Barbara. The problem indicates that a genuine dispute occurred between Alan and Barbara. Where a check is tendered by the debtor to the creditor in full payment or settlement, the cashing of the check constitutes an accord and satisfaction. Revised 3-311. The fact that Alan gave Barbara his promissory note for $1,000 and that Barbara collected on the note strengthens the conclusion stated. Moreover, under UCC Section 2-209(1), consideration is not needed.

Baker entered into an oral agreement with Healey, the State distributor of Ballantine & Sons liquor products, that Ballantine would supply Baker with its products on demand and that Baker would have the exclusive agency for Ballantine within a certain area of Connecticut. Shortly thereafter the agreement was modified to give Baker the right to terminate at will. Eight months later, when Ballantine & Sons revoked its agency, Baker sued to enforce the oral agreement. Decision?

Answer: Illusory Promises. Judgment for Ballantine & Sons. To agree to do something and reserve the right to cancel the agreement as will is no agreement at all. By the valid addition to their oral agreement, Baker had an unconditional right to terminate the contract at will. His promise under the agreement, then, was merely illusory. As such, it was insufficient consideration to support Ballantine’s promise of an exclusive agency to Baker. R.F. Baker & Co., Inc. v. P. Ballantine & Sons. Supreme Court of Errors of Connecticut. 127 Conn. 680, 20 A.2d 82. (1941).

PLM, Inc. entered into an oral agreement with Quaintance Associates, an executive “headhunter” service, for the recruitment of qualified candidates to be employed by PLM. As agreed, PLM’s obligation to pay Quaintance did not depend on PLM’s actually hiring a qualified candidate presented by Quaintance. After several months Quaintance sent a letter to PLM, admitting that it had so far failed to produce a suitable candidate, but included a bill for $9,886.61, covering fees and expenses. PLM responded that Quaintance’s services were only worth $6,060.48, and that payment of the lesser amount was the only fair way to handle the dispute. Accordingly, PLM enclosed a check for $6,060.48, writing on the back of the check “IN FULL PAYMENT OF ANY CLAIMS QUAINTANCE HAS AGAINST PLM, INC.” Quaintance cashed the check and then sued PLM for the remaining $3,746.13. Decision?

Answer: Settlement of a Disputed Debt. Judgment for PLM, Inc. When there is a good faith dispute as to the amount due, it makes no difference that the creditor protests or states that he does not accept the amount offered in full satisfaction of the debt. The creditor either must accept what is offered with the condition upon which it is offered, or refuse the payment entirely. Quaintance Associates, Inc. v. PLM, Inc., 95 Ill.App. 818, 420 N.E.2d 567 (1981).

Red Owl Stores sold the Hoffman family that, upon the payment of approximately $18,000, a grocery store franchise would be built for them in a new location. Upon the advice of Red Owl, the Hoffmans bought a small grocery store in their hometown in order to gain management experience. After the Hoffmans operated at a profit for three months, Red Owl advised them to sell the small grocery, assuring them that Red Owl would find them a larger store elsewhere. Although selling at that point would cost them much profit, the Hoffmans followed Red Owl’s directions. Additionally, to raise the money required for the deal, the Hoffmans sold their bakery business in their hometown. The Hoffmans also sold their house, and moved to a new home in the city where their new store was to be located. Red Owl informed the Hoffmans that it would take $24,100, not $18,000, to complete the deal. The family scrambled to find the additional funds. However, when told by Red Owl that it would now cost them $34,000 to get their new franchise, the Hoffmans decided to sue instead. Decision?

Answer: Promissory Estoppel. Judgment for the Hoffmans. All the requirements of promissory estoppel are present in these facts. 1) Was the promise one which the promisor should reasonably expect to induce action or forbearance of a substantial character by the promisee; 2) Did the promise in fact induce such action or forbearance; and 3) Can injustice be avoided only by enforcement of the promise? Note that the promise need not be so definite as to translate into an offer were consideration exchanged. Hoffman v. Red Owl Stores, Inc., 26 Wis.2d 683, 133 N.W.2d 267 (1965).
Rafferty was the principal shareholder in Continental Corporation, and, as a result, he received the lion's share of Continental's dividends. Continental Corporation was eager to close an important deal for iron ore products to use in its business. A written contract was on the desk of Stage Corporation for the sale of the iron ore to Continental. Stage Corporation, however, was cautious about signing the contract; and it did not sign until Rafferty called Stage Corporation on the telephone and stated that if Continental Corporation did not pay for the ore, he would. Business reversals struck Continental Corporation, and it failed. Stage Corporation sues Rafferty. What defense, if any, has Rafferty? Decision?

Answer: Suretyship Provision. Main Purpose Doctrine. Rafferty has the defense that his oral agreement to pay for the iron ore was a contract to guarantee the payment of the debt of another which the statute of frauds requires to be in writing to be enforceable. Rafferty's oral promise to pay Continental Corporation's debt was collateral to the debt or liability of Continental Corporation. Rafferty's promise cannot be said to be an original promise or undertaking even though he was the principal shareholder in Continental Corporation. However, the main purpose doctrine will be available to Stage Corporation and bind Rafferty to his oral promise.

Green was the owner of a large department store. On Wednesday, January 26, he talked to Smith and said, "I will hire you as sales manager in my store for one year at a salary of $28,000; you are to begin work next Monday." Smith accepted and started work on Monday, January 31. At the end of three months, Green discharged Smith. On May 15, Smith brought an action against Green to recover the unpaid portion of the $28,000 salary. Decision?

Answer: One Year Provision. Decision in favor of Green. The oral contract of employment between Green and Smith was entered into on Wednesday, January 26, but Smith was not required to begin work until Monday, January 31, five days after the making of the contract. The agreement was thus not capable of performance within one year from the day on which it was made and is within the statute of frauds. The contract is, hence, not enforceable. Where a contract of service is for the term of a year beginning or which may begin on the day of the making of the contract, the statute of frauds is inapplicable. An oral contract for a year's services, as here, to begin more than one day after the contract is entered into is impossible of performance within one year from the date of making and is therefore unenforceable under the statute of frauds. Part performance of an oral contract not performable within a year does not take a contract out of the statute of frauds.

Moriarty and Holmes enter into an oral contract by which Moriarty promises to sell and Holmes promises to buy Blackacre for $10,000. Moriarty repudiates the contract by writing a letter to Holmes in which he states accurately the terms of the bargain, but adds "our agreement was oral. It, therefore, is not binding upon me, and I shall not carry it out." Thereafter, Holmes sues Moriarty for specific performance of the contract. Moriarty interposes the defense of the statute of frauds, arguing that the contract is within the statute and, hence, unenforceable. Decision?

Answer: Writing or Memorandum. Judgment for Holmes. Moriarty, the party whom Holmes seeks to charge, signed a letter stating the terms of the oral contract. By signing the letter, which serves as a memorandum, Moriarity complied with the requirements of the statute of frauds. Thus the contract is enforceable and Holmes is entitled to specific performance of the contract. Specific performance is available because land is a unique commodity.

Clay orally promises Trent to sell him five crops of potatoes to be grown on Blackacre, a farm in Minnesota, and Trent promises to pay a stated price for them on delivery. Is the contract enforceable?

Answer: One Year Provision. The contract may not be enforceable. Where an oral agreement cannot be performed within one year from the date of the making of the contract it is within the statute of frauds. The contract is within the statute of frauds for the reason that it is impossible in Idaho for five crops of potatoes to mature in one year, but if they could, then the contract would be enforceable.

Grant leased an apartment to Epstein for the term May 1, 1990, to April 30, 1991, at $550 a month "payable in advance on the first day of each and every month of said term." At the time the lease was signed, Epstein told Grant that he received his salary on the 10th of the month and that he would be unable to pay the rent before that date each month. Grant replied that would be satisfactory. On June 2, due to Epstein's not having paid the June rent, Grant sued Epstein for such rent. At the trial, Epstein offered to prove the oral agreement as to the date of payment each month. Decision?

Answer: Parol Evidence Rule. Decision for Grant. The lease expressly provided that the rent for each month was payable in advance on the first day of the month. The oral agreement that the lessee could pay each month's rent on the 10th of the month would not be admissible to change the terms of the lease, because it is contemporaneous parol evidence that contradicts an integrated document. If Grant had allowed Epstein to make the payment on the 10th of the month for several months, his actions may give Epstein a stronger argument for enforcement of the oral agreement under a course of performance argument.
Rachel bought a car from the Beautiful Used Car Agency under a written contract. She purchased the car in reliance on Beautiful's agent's oral representations that it had never been in a wreck and could be driven at least two thousand miles without adding oil. Thereafter, Rachel discovered that the car had, in fact, been previously wrecked and rebuilt, that it used excessive quantities of oil, and that Beautiful's agent was aware of these facts when the car was sold. Rachel brings an action to rescind the contract and recover the purchase price. Beautiful objects to the introduction of oral testimony concerning representations of its agent, contending that the written contract alone governed the rights of the parties. Decision on the objection?

**Answer: Parol Evidence Rule.** Decision for Rachel. The used car agency's objection to the introduction of the oral testimony would be overruled. The oral representations by used car agency's agent that the car had never been in a wreck and could be driven 2,000 miles without adding oil were fraudulent. The parol evidence rule does not exclude the admission of evidence to establish fraud. The reason for the rule is that where the parties have reduced their contract to writing, they intend that all of the terms of the contract are incorporated in the writing. Consequently, the introduction of extrinsic evidence to vary, alter, change, or add to the terms contained in writing would be changing the contract made by the parties. However, fraudulent misrepresentations which induced the contract are not part of the contract but separate and apart from it. The introduction of evidence of fraud, therefore, is not prohibited by the parol evidence rule. Restatement, Second, Contracts, Section 214.

In a contract drawn up by Booke Company, it agreed to sell and Yermack Contracting Company agreed to buy wood shingles at $6.50 per bundle of 900 shingles. Yermack Company refused to pay because it thought the contract meant $6.30 per thousand shingles. Booke Company brought action to recover on the basis of $6.50 per bunch. The evidence showed that there was no applicable custom or usage in the trade and that each party held its belief in good faith. Decision?

**Answer: Interpretation of Contracts.** Decision for Yermack Contracting Company. In the absence of an applicable custom or trade usage, the contract is ambiguous. As it was written by the seller, Booke Company, under ordinary rules of construction, it would be construed most strongly against Booke Company as the party drafting it. Booke Company in good faith believed that the price of the wood shingles was $650 per bunch of 900 shingles, whereas Yermack Contracting Company in good faith believed that each bunch contained 1,000 shingles. As the contract did not define the number of shingles to be contained in each bunch, Booke Company would not be able to recover at the rate of $650 per bunch of 900 shingles. Yermack Contracting Company is unable to establish any basis for its contention that each bunch should contain 1,000 shingles. It appears, therefore, that the parties never reached an agreement on the price. However, they did intend to make a contract, and the shingles were actually delivered to and used by the buyer. Consequently, Yermack Contracting Company is under a duty to pay the Booke Company a reasonable price for the shingles which it received. U.C.C. Section 2-305.

Louie E. Brown worked for the Phelps Dodge Corporation under an oral contract for approximately twenty-three years. In 1967, he was suspended from work for unauthorized possession of company property. In 1968, Phelps Dodge fired Brown after discovering that he was using company property without permission and building a trailer on company time. Brown sued Phelps Dodge for benefits under an unemployment benefit plan. According to the plan, “in order to be eligible for unemployment benefits, a laid-off employee must: (1) Have completed 2 or more years of continuous service with the company, and (2) Have been laid off from work because the company had determined that work was not available for him.” The trial court held that the wording of the second condition was ambiguous and should be construed against Phelps Dodge, the party who chose the wording. A reading of the entire contract, however, indicates that the plan was not intended to apply to someone who was fired for cause. Decision?

**Answer: Interpretation of Contracts.** Decision for Phelps Dodge. A reading of the entire contract indicates that no ambiguity exists. The contract was not meant to apply to someone who was dismissed for cause. Brown was not entitled to recover under the plan. *Phelps Dodge Corp. v. Brown*, 112 Ariz. 179, 540 P.2d 651 (1975).
Chapter 16 — Answers to Problems

1. On December 1, Euphonia, a famous singer, contracted with Boito to sing at Boito’s theatre on December 31 for a fee of $25,000 to be paid immediately after the performance.
   (a) Euphonia, for value received, assigns this fee to Carter.
   (b) Euphonia, for value received, assigns this contract to sing to Dumont, an equally famous singer.
   (c) Boito sells his theatre to Edmund and assigns his contract with Euphonia to Edmund.

State the effect of each of these assignments.

Answer: Rights That are Assignable.
   (a) The assignment by Euphonia of her fee is valid, and Carter can collect it from Boito. Euphonia has assigned her right to the payment of money, as represented by the fee to be paid to her for singing at Boito’s theater. It makes no legal difference to Boito whether he pays the fee to Euphonia or to Carter, so long as such payment absolves him from his obligation to pay.
   (b) Delegation of Duties. The delegation of the contractual duty to Dumont is invalid. The personal element is the dominant feature of the contract. Dumont may be equally famous as a singer and yet Boito may, for perfectly valid reasons, not wish Dumont to sing in his theater.
   (c) Rights That Are Assignable. This contract is assignable. The contract required Euphonia’s special skill as a singer, but Euphonia was not required to perform any differently for Edmund than for Boito. Should this not be the case, it may be that the contract is not assignable because of its personal nature.

2. The Smooth Paving Company entered into a paving contract with the city of Chicago. The contract contained the clause “contractor shall be liable for all damages to buildings resulting from the work performed.” In the process of construction, one of the bulldozers of the Smooth Paving Company struck and broke a gas main, causing an explosion and a fire that destroyed the house of John Puff. Puff brought an appropriate action against the Smooth Paving Company to recover damages for the loss of his house. Decision?

Answer: Intended Beneficiary. Decision in favor of Puff. Even though the contract did not clearly designate the party to whom the contractor was to be liable, the terms of the contract express clearly and unequivocally that the contractor assumed liability to the property owner. By so doing, the contractor assumed liability to protect the property owner, and, as a result, the property owner was a third party beneficiary and entitled to sue and recover. It is not essential to the third person’s right to enforce a contract made for his benefit that he be expressly named in the contract if he is otherwise sufficiently described or designated, and he may even be one of a class of persons if the class is sufficiently indicated.

3. Julia contracts to sell to Hayden, an ice cream manufacturer, the amount of ice Hayden may need in his business for the ensuing three years to the extent of not more than 250 tons a week at a stated price per ton. Hayden makes a corresponding promise to Julia to buy such an amount of ice. Hayden sells his ice cream plant to Clark and assigns to Clark all Hayden’s right under the contract with Julia. Upon learning of the sale, Julia refuses to furnish ice to Clark. Clark sues Julia for damages. Decision?

Answer: Assignments and Delegations. The contract between Julia and Hayden is bilateral and executory, involving rights and duties on each side. Only rights are assignable. Duties are never assignable, but their performance may be delegated to another whenever defectus personae, choice of the person, is not integral to the performance. Julia’s assignment of the entire contract to Reed involves a delegation to Reed of Julia’s duties under her contract with Hayden. These duties are related to the ice cream factory’s operating requirements for ice. Even though these requirements may be substantially different for a factory operated by Reed than for the same factory operated by Julia, the contract places a maximum quantity upon the contract—250 tons per week. Therefore, it appears that the contract is both assignable and delegable. Cf. Restatement, Second, Contracts, Section 317, illus. 5.

4. Brown enters into a written contract with Ideal Insurance Company under which, in consideration of her payment of the premiums, the insurance company promises to pay XYZ College the face amount of the policy, $100,000, on Brown’s death. Brown pays the premiums until her death. Thereafter, XYZ College makes demand for the $100,000, which the insurance company refuses to pay upon the ground that XYZ College was not a party to the contract. Decision?

Answer: Gift Promise. Decision for XYZ College. This is an intended third party donee beneficiary type of contract. Privity of contract between the promisor Insurance Company and the donee beneficiary under the policy is not required. The right arises from the intention of Brown to confer a benefit upon the XYZ College, and the promise of the Insurance Company to Brown is enforceable directly by the intended third party beneficiary.
McDonald's granted to Copeland a franchise in Omaha, Nebraska. In a separate letter, it also granted him a right of first refusal for future franchises to be developed in the Omaha-Council Bluffs area. Copeland then sold all rights in his six McDonald's franchises to Schupack. When McDonald's offered a new franchise in the Omaha area to someone other than Schupack, he attempted to exercise the right of first refusal. McDonald's would not recognize the right in Schupack, claiming that it was personal to Copeland and, therefore, nonassignable without its consent. Schupack brought an action for specific performance, requiring McDonald's to accord him the right of first refusal. Decision?

Answer: Judgment for McDonald's. Contracts for personal services or involving relations of personal confidence and trust are not assignable without the consent of the other party to the contract.

Whether the right of first refusal is personal and, therefore, not assignable depends on the intent of the parties to the original contract. The evidence shows that it is the "basic and undeviating policy of McDonald's to retain the rigid and absolute control over who receives new franchises." Here, the right was granted solely to Copeland and independently of the franchise contract. Furthermore, McDonald's granted the right on the basis of the personal confidence and trust that it placed in Copeland. The intent and purpose of the letter granting the right was to look to the personal performance of Copeland. These factors indicate that McDonald's intended the right of first refusal to be personal to Copeland and nonassignable without its consent. Schupack v. McDonald's System, Inc., 264 N.W.2d 827 (Neb. 1978).

Rensselaer Water Company contracted with the city of Rensselaer to provide water to the city for use in homes, public buildings, industry, and fire hydrants. During the term of the contract a building caught fire. The fire spread to a nearby warehouse and destroyed it and its contents. The water company knew of the fire but failed to supply adequate water pressure at the fire hydrant to extinguish the fire. The warehouse owner sued the water company for failure to fulfill its contract with the city. Decision?

Answer: Incidental Third Party Beneficiaries. Judgment against the warehouse owner. The contract between the water company and the city created a duty to the city but not to its residents who are incidental beneficiaries. The court viewed the potential burden of the water company to every inhabitant of the city as too great compared to the rewards of the contract. Payment of water fees would be insufficient consideration for such an extended risk. H.R. Moch, Inc. v. Rensselaer Water Co., 247 N.Y. 160, 159 N.E. 896 (1928).

While under contract to play professional basketball for the Philadelphia 76ers, Billy Cunningham negotiated a three-year contract with the Carolina Cougars, another professional basketball team. The contract with the Cougars was to begin at the expiration of the contract with the 76ers. In addition to a signing bonus of $125,000, Cunningham was to receive under the new contract a salary of $100,000 for the first year, $110,000 for the second, and $120,000 for the third. The contract also stated that Cunningham "had special, exceptional and unique knowledge, skill and ability as a basketball player" and that Cunningham therefore agreed the Cougars could enjoin him from playing basketball for any other team for the term of the contract. In addition, the contract contained a clause prohibiting its assignment to another club without Cunningham's consent. In 1971 the ownership of the Cougars changed, and Cunningham's contract was assigned to Munchak Corporation, the new owners, without his consent. When Cunningham refused to play for the Cougars, Munchak Corporation sought to enjoin his playing for any other team. Cunningham asserts that his contract was not assignable. The trial court denied injunctive relief and Munchak appealed. Decision?

Answer: Judgment for Munchak. Generally, the right to performance of a personal service contract requiring special skills and based upon the personal relationship between the parties cannot be assigned without the consent of the party rendering those services. Such contracts may be assigned, however, when the character of the performance and the obligation will not change following the assignment. Although the contract required his special skills as a ballplayer, Cunningham was not obligated to perform any differently for Munchak than for the original owners. Moreover, the contract prohibited its assignment to another club without his consent but did not prohibit assignment to another owner of the same club. Therefore, under these facts, his contract is assignable. Munchak Corp. v. Cunningham.