

Thomas Witter Ltd v TBP Industries Ltd [1996] 2 All ER 573

The case examines misrepresentation during sale negotiations.

Evidence

The plaintiff wanted to purchase a carpet company from the defendant. While the parties were negotiating the sale of the company, the defendant misrepresented £120,000 as a one-off expense. This expenditure was planned to be distributed over a period of two years instead of as a single transaction. The sale contract also had a clause that implied that the plaintiff had admitted that they did not reach an agreement due to the representation and warranty concerns of the defendant. The plaintiff appealed to negligent misinterpretation concerning the defendant's inaccurate information about the expenses. Meanwhile, the defendant referred to the limitation clause in the agreement.

Problematics

The court has to establish whether the limitation clause in the contract is applicable in this case. The ability of the defendant to rely on this clause would release them from liability for the misrepresentation during the process of negotiating with the plaintiff.

Resolution

In accordance with the Misrepresentation Act of 1967, sections 1 and 3, the court decided in favor of the plaintiff. Namely, the clause aimed to exclude any type of misrepresentation from the agreement. The court also determined that the limitation clause can only be used in cases of breaching a contractual agreement, while it is not applicable to the induction into an agreement.

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