

# **UK CONTRACT LAW CASE NOTES**



**LAWSKOOL.CO.UK**

**LAWSKOOL UK**

## Contents

<i>Butler Machine Tool Co v Ex-cell-o Corp (England) Ltd</i> [1979] 1 All ER 965 .....	3
<i>Carlill v Carbolic Smoke Ball Company</i> [1893] 1 QB 256.....	5
<i>Central London Property Trust Ltd v High Trees House Ltd</i> [1947] KB 130 .....	8
<i>Dick Bentley Productions v Harold Smith (Motors)</i> [1965] 2 All ER 65 .....	10
<i>Dunlop Pneumatic Tyre Co Ltd v Selfridge &amp; Co Ltd</i> [1915] UKHL 1 .....	11
<i>Felthouse v Bindley</i> (1862) 142 ER 1037.....	13
<i>Foakes v Beer</i> [1884] UKHL 1 .....	14
<i>Hadley v Baxendale</i> [1854] EWHC J70 .....	15
<i>Oscar Chess v Williams</i> [1957] 1 WLR 370 .....	18
<i>Pharmaceutical Society of Great Britain v Boots Cash Chemists</i> [1953] 1 QB 401 .....	20
<i>Roscorla v Thomas</i> (1842) 3 QB 234.....	22
<i>Thornton v Shoe Lane Parking</i> [1971] 2 QB 163 .....	23

***Butler Machine Tool Co v Ex-cell-o Corp (England) Ltd [1979] 1 All ER***

**965**

**Source:** Hard copy via your law library or electronically via a subscription service

**Court details:** Court of Appeal

**Procedural history:** Appeal from Theisiger J

**Facts:**

- Butler quoted a price for a machine with specific terms and conditions
- The terms and conditions included a price variation clause, which provided for an increase in price if there was an increase in manufacturing costs
- Ex-cell-o Corp responded with its own form, with its own terms and conditions, without a price variation clause
- Butler delivered the machine some time later, but claimed an additional amount on its price variation clause

**Issue:** To determine the effect of a counter offer of an original offer. Whether the seller was entitled to the benefit of a price variation provided for in terms set out on the seller's original quotation?

**Reasoning / Decision (Commentary):**

- Butler's original quote was an offer. Ex-cell-o Corp's response was not in accordance with Butler's offer, its form constituted a counter-offer, which was accepted by Butler
- The counter-offer kills the original offer. Thus, the contract was based on Ex-cell-o Corp's terms
- Case is an example of the 'battle of the form's, a situation that: arises when both parties, for example, a buyer and a seller of goods, exchange inconsistent standard forms during contract negotiations and reach an agreement without deciding whose standard form should prevail

◆◆◆◆

**To order the complete version of the Lawskool Contract Law Case Notes  
please visit [www.lawskool.co.uk](http://www.lawskool.co.uk)**