

Academy Chicago Publishers v. Cheever, 578 N.E.2d 981 (Ill. 1991)

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CASE SUMMARIES

Academy Chicago Publishers v. Cheever,

578 N.E.2d 981 (Ill. 1991).

Introduction

The Supreme Court of Illinois reviewed a declaratory judgment which defined the terms of an agreement made between the Academy Chicago Publishers (hereinafter "the Academy") and Mrs. Mary Cheever, the widow of author John Cheever. On this appeal, the court reversed the lower court's declaratory judgment and held the material terms of the contract were too indefinite to enforce. Therefore, the court concluded that the contract was neither valid nor enforceable.

Facts

In 1987, the Academy approached Mrs. Cheever and negotiated with her to publish a book containing a collection of her late husband's short stories. On August 15, 1987, the parties signed a publishing agreement whereby Mrs. Cheever promised to create a manuscript that the Academy would find satisfactory and to deliver it to the Academy on some agreeable date.¹ According to the contract, after a reasonable time, the Academy would publish it on a mutually agreeable date under conditions it would deem appropriate.² In preparing to create the anthology, the Academy sent Mrs. Cheever over sixty of Mr. Cheever's short stories as well as an advance payment. Shortly thereafter, Mrs. Cheever decided she did not want to do the publication and attempted to return the advance payment. The Academy filed suit in the Circuit Court of Cook County in an attempt to get a declaratory judgment to enforce the publishing contract against Mrs. Cheever. The circuit court declared that the contract was valid and enforceable. It also defined the terms under the agreement. First, the court declared that Mrs. Cheever was entitled to select the stories that would appear in the book. Second, the court determined that the contract required Mrs. Cheever to perform in good faith, and that good faith mandated that she include a minimum of ten to fifteen stories which would total no less than one hundred and forty pages. Finally, the court held that the Academy would control the design and format of the publication, but only in cooperation with Mrs. Cheever.

The Academy appealed and challenged the orders setting a minimum number of stories and pages to

be included in the book and requiring the Academy to consult with Mrs. Cheever on matters related to publishing the transcript. The appellate court affirmed the trial court's decisions concerning the enforceability of the contract and the minimum requirements for the number of stories and pages within the book. It reversed the order requiring the Academy to consult with Cheever on matters concerning the book's publication.

The decision was appealed to the Supreme Court of Illinois where both parties raised several issues. That court reexamined only one issue: whether the agreement made between the Academy and Cheever was a valid and enforceable contract.

Legal Analysis

The Supreme Court of Illinois explained that the essential terms of a valid and enforceable contract must be definite and certain and demonstrate a meeting of the minds.³ The court also stated that a court may fill in a term of a contract if that court reasonably concludes that the term was intended by both parties.

The court noted that in the trial testimony the major sources of controversy between the parties included: the length and content of the book; who was to decide what goes into the book; the date for delivery of the transcript; the criteria by which the publisher would judge the transcript to be satisfactory; and the details concerning when and how the publication would occur. The court observed that the words of the contract and the conduct of the parties did not indicate the parties intended to assent to the same terms in these areas. The court also ruled that the terms supplied by the lower court in completing the contract were not the terms reasonably intended by both parties to the contract.

In the absence of evidence to determine these contractual terms, the court concluded that the agreement contained major unresolved questions. The court ruled that it is not the role of the court to complete essential elements of a contract and to rewrite the contract. Therefore, the court held that the terms of the contract were too uncertain and indefinite for a valid contract to have ever formed and that the agreement was unenforceable. The judgment of the lower court was reversed.

Conclusion

The Illinois Supreme Court's holding suggests that publishing contracts are deficient when they do not