

Negotiation of a Bill of Exchange

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Case Problem

Tom purchased a used PC from **John** for 500 euro (100 euro Cash, 400 in the form of a promissory note due in 3 months). Fearing that Tom would discover that the computer was defective, John transferred the note to **Sylvia**. She attempted unsuccessfully to collect from Tom, who by then had discovered that the PC was worthless. Sylvia has sued Tom. Will Sylvia prevail as to the entire amount of the note? Explain...

Intention of drafters of the Uniform Bill of Exchange Act

- Simple process of negotiation
- Series of contracts
- Chain creating
- Transferee status - protected

Transfer of a negotiable instrument

- „Nonnegotiable paper“
 - May be assigned
- Bearer paper
 - Paper payable to the person who has physical possession of it
 - Holder on delivery
- Order paper
 - Paper payable to the order of a named payee
 - Delivery + Indorsement (in writing)

„Nonnegotiable“ instrument

- drawer may exclude endorsement by the so-called restrictive clause („Rektaklausel“) and the bill is then transferable by assignment
- the law demonstratively states the wording: “not to order”
- in practice, we usually find it under the designation of the creditor in bill (“Pay not to order to Mr. Jan Cerny”)
- transfer is then possible only in the form and with the effects of assignment (Civil Code)
- for the contract of assignment to be valid a written form is required by the law
- Effects: the acquirer acquires the right only derivatively from the previous possessor and is exposed to all objections lodged by the debtor against the endorser (PERSONAL DEFENSES)

Indorsement of a Bill

Bill of exchange

In Prague, January 1, 2005

For this bill of exchange pay to the order of Franck Payee the sum of One hundred 100 USD.

Drawee:

Karel Nowak

Brno, Úvoz 1

602 00

At: Brno, Úvoz 1, 602 00

accepted *Karel Nowak*

Signature of the drawer

Jan Pleva

Indorsement – Participants, Form and Location

For me to order of Paul Newman
Franck Payee
signature

For me to order of Franck Black
Paul Newman
signature

Blankindorsement

Endorser can „turn“ order paper into bearer paper:

„Pay

(s) Kim Gordon“

Effects of indorsements

- Transferring (Sec. 14 I)
- Legitimizing (Sec. 16)
- Guaranteeing (Sec. 15)

Types of Indorsement

Non-binding - Art. I, Sec. 15, par. 1

“sine obligo”, “without binding effect”, “without guarantee”, “without recourse”

Direct (transfer prohibition) - Art. I, Sec. 15, par. 2 BECA

“not to order”

Mandating - Art. I, Sec. 18 BECA

“value in collection”, “for collection”, “by procreation”

Securing - Art. I, Sec. 19 BECA

“to securing”, “value for securing”, “value in pledge”

Sub-endorsement- Art. I, Sec. 20 BECA