

Palace Shipping Co Ltd v Caine

[1907] AC 386, 76 LJKB 1079, 10 Asp MLC 529, 13 Com Cas 51, 51 Sol Jo 716, 97 LT 587, 23 TLR 731

Court: HL

Judgment Date: circa 1907

Catchwords & Digest

CONTRACT - IMPOSSIBILITY AND MISTAKE - SUBSEQUENT IMPOSSIBILITY AND FRUSTRATION - IMPOSSIBILITY OF LEGAL PERFORMANCE -- FRUSTRATION OF ADVENTURE - CONTRACTS OF SERVICE - SERVICE AS SEAMAN -- DECLARATION OF WAR -- ALTERATION OF RISK

British seamen signed an agreement for a voyage from Cardiff to any ports within certain limits, including Hong Kong, knowing that Russia and Japan were at war, that the ship was to carry coal to Hong Kong, and that coal was treated by both belligerents as contraband of war. At Hong Kong the master required the men to proceed with the coal to a naval base in Japan within the limits, and on their refusal illegally procured their imprisonment and left them at Hong Kong and proceeded to Japan without paying them their wages: Held the agreement being for a peaceful commercial voyage, the men were justified in refusing to go to Japan at the risk of war capture and its consequences, and they were entitled to wages until the final settlement, and to the cost of maintenance for the same period under the head of damages for wrongful discharge.

ESTOPPEL - ESTOPPEL BY RECORD - ESTOPPEL QUASI BY RECORD - OTHER COURTS AND TRIBUNALS - NAVAL COURT -- MERCHANT SHIPPING ACT 1894 (C 60)

Plaintiffs, who were British seamen, signed an agreement to serve on a British ship on a voyage not exceeding three years' duration to any ports within 75 degrees N and 60 degrees S latitude, commencing at Cardiff and proceeding thence to Hong Kong, and to end at a port in Europe. At the time of signing plaintiffs knew that war had broken out between Russia and Japan, that the ship was to carry a cargo of coal to Hong Kong, and that coal was treated by both belligerents as contraband of war. After arrival at Hong Kong plaintiffs were told by the master that the ship was going on to Sasebo, a port and naval base in Japan, but within the geographical limits of the voyage. Plaintiffs refused to go on to Sasebo with coal on board, and were thereupon charged before a court of competent jurisdiction at Hong Kong with having impeded the progress of the ship by refusing to go to sea, and were convicted and imprisoned. Other sailors were substituted for plaintiffs, and the ship went on to Sasebo. Plaintiffs, after their discharge from prison, were returned to this country as distressed seamen. Plaintiffs having brought an action to recover wages from the date of their trial at Hong Kong, and also general damages: Held the conviction of plaintiffs at Hong Kong did not operate as an estoppel against their claim for wages.

It is well settled that a conviction is no estoppel in a civil action. ... Estoppels must be mutual; but the litigation here is between shipowners and seamen, in the criminal proceeding at Hong Kong it was between the King and the prisoner (Farwell LJ).

SHIPPING AND NAVIGATION - MASTERS AND SEAMEN - ENGAGEMENT AND DISCHARGE OF CREWS - DISCHARGE - WRONGFUL DISMISSAL - ACTION FOR DAMAGES - RIGHT TO DAMAGES -- TERMINATION OF SERVICE BY ALTERED CHARACTER OF VOYAGE -- CARRIAGE OF CONTRABAND

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the agreement being for a peaceful commercial voyage, the men were justified in refusing to go to Japan at the risk of war capture and its consequences; (2) they were entitled to wages until the final settlement, and to the costs of maintenance for the same period under the head of damages for wrongful discharge.

TORT - SPECIFIC TORTS - TRESPASS AND ASSOCIATED TORTS - TRESPASS TO THE PERSON - MALICIOUS PROSECUTION - ESSENTIALS TO THE ACTION - TERMINATION OF PROCEEDINGS IN PLAINTIFF'S FAVOUR - NECESSITY FOR - TERMINATION OF PROSECUTION IN CRIMINAL PROCEEDINGS -- BY ACQUITTAL

Plaintiffs admit that they can get no damages for malicious prosecution because the conviction stands (Farwell LJ).

Case History

Annotations	Case Name	Citations	Court	Date	CaseSearch
--	Palace Shipping Co Ltd v Caine	[1907] AC 386, 76 LJKB 1079, 10 Asp MLC 529, 13 Com Cas 51, 51 Sol Jo 716, 97 LT 587, 23 TLR 731	HL	circa 1907	CaseSearch Entry
Affirming	Caine v Palace Steam Shipping Co	[1907] 1 KB 670, 76 LJKB 292, 10 Asp MLC 380, 51 Sol Jo 170, 96 LT 410, 23 TLR 203, 12 Com Cas 96 CA	CA	circa 1907	CaseSearch Entry

Cases considered by this case

Annotations: All Cases **Court:** ALL COURTS

Sort by: Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	CaseSearch
Considered	Sibery v Connelly	(1907) 10 Asp MLC 330, 96 LT 140, 23 TLR 257	CA	circa 1907	CaseSearch Entry
Applied	O'Neil v Armstrong Mitchell & Co	[1895] 2 QB 418, 65 LJQB 7, 8 Asp MLC 63, 14 R 703, [1895-9] All ER Rep 1073, 73 LT 178, 11 TLR 548	CA	circa 1895	CaseSearch Entry
Considered	Great Eastern Steamship Co, Re, William's Claim	(1885) 5 Asp MLC 511, 53 LT 594, [1881-5] All ER Rep Ext 1213	Ch D	circa 1885	CaseSearch Entry
Considered	Burton v Pinkerton	(1867) LR 2 Exch 340, 31 JP 615, 36 LJ Ex 137, 2 Mar LC 494, 547, 15 WR 1139, 16 LT 419, 17 LT 15	pre-SCJA 1873	circa 1867	CaseSearch Entry