

BALFOUR V BALFOUR: NAVIGATING THE LEGAL LANDSCAPE OF DOMESTIC AGREEMENTS

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INTRODUCTION

Contract law has evolved substantially, with pivotal cases and judgments shaping its various facets. One such influential case is *Balfour v. Balfour*¹, which holds significant importance in contract law as it delves into the parties' intent to establish legal relations. It also addresses whether contracts between spouses are legally enforceable in a court of law. It was in the early 1940s that the legal concept of an 'intention to create legal relations' gained prominence in case law, primarily stemming from Atkin LJ's judgment in the *Balfour v Balfour* case.² This case analysis will delve into the complex details of the dispute, examining the legal issues, the court's decision, and the subsequent analysis of the precedent, emphasizing the significance of clear intent in forming legally enforceable contracts within domestic arrangements.

FACTS OF THE CASE

The case involves a dispute between a husband and wife. They were married in 1900, and the husband held a government position in Ceylon as the Director of Irrigation. They lived in Ceylon together until November 1915, when they returned to England due to the husband's leave. In August 1916, as the husband was about to return to Ceylon but the wife had to stay there because of some medical condition, an alleged oral agreement was made. He gave the wife a cheque for £24 and promised to provide her with £30 per month until she could join him in Ceylon. The wife contended that they initially wrote "34l." on the cheque but later changed it to "30l." She understood this as the agreed monthly allowance. The husband suggested they should remain apart, leading to a period of separation. In March 1918, the wife sought action against Mr. Balfour for restitution of conjugal rights, obtaining a decree nisi in July 1918 and an alimony order in December 1918.³

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¹ *Balfour v Balfour* [1919] 2 KB 571

² Stephen H, 'Keeping Contract in Its Place--*Balfour v Balfour* and the Enforceability of Informal Agreements.' (1985) 5 *Oxford Journal of Legal Studies* 393 <<http://www.jstor.org/stable/764516>> accessed 10 October 2023

³ *Balfour v Balfour* [1919] 2 KB 571

LEGAL ISSUES

- 1) Whether there was intent on Mr. Balfour's part to enter into an agreement with his wife, Mrs. Balfour.
- 2) Whether the contract between husband and wife is legally enforceable in a court of law.

DECISION

In this case, the judges, including Justice Atkins, Justice Warrington, and Justice Duke, emphasized that contract law does not govern personal relationships and family matters. Justice Atkins ruled that the absence of an intention to create a legal relationship negates the existence of a legally binding contract. Justice Warrington pointed out that the husband had expressed his intention to provide financial support and was morally obligated to continue, while the wife had not made a binding agreement. Consequently, the unanimous decision of the Court of Appeal concluded that agreements between spouses to provide financial support typically do not qualify as contracts due to the absence of an intention to establish legal obligations.

ANALYSIS OF THE JUDGEMENT

At first, Justice Sargant held that the husband was obligated to support his wife. The wife's consent to that arrangement was a sufficient consideration to constitute a contract that could be sued upon in the future. He, thus, gave judgment in favour of the plaintiff.

Later, the husband filed an appeal. Barrington-Ward K.C. and Du Parcq represented the appellant. They argued that when a husband and wife temporarily live apart, as in this case, any agreement they enter does not create contractual rights. They emphasized that there was no agreement for a formal separation; instead, the arrangement was purely domestic and intended to be in effect until the wife rejoined her husband. Therefore, they contended that it could not be deemed a legally binding contract, primarily since the wife did not provide any consideration for the promise. They further asserted that this was a temporary domestic arrangement arising from the husband's absence abroad and was not intended to be contractual. In order to determine if the promises exchanged by the husband and wife are contractual, there have to be some obligations involved for the contract to exist. The mere exchange of promises does not ultimately lead to contractual relationships or a legally binding contract. Hawke K.C. and Tebbs represented the respondent. They argued that when a husband and wife live together, the wife can enter into a contract with her husband, just as she could with any other person.

They also mentioned that in cases where husband and wife separate with mutual consent, and the wife establishes her terms regarding her income, she lacks the authorization to commit her husband's financial resources if that income proves insufficient for her support—citing the precedent in *Eastland v. Burchell*. However, in this case, the agreement was about separating due to a divorce; in the *Balfour* case, there was no agreement to separate permanently. Because of this difference, the judgment in the *Eastland v Burchell* case does not apply to the *Balfour v Balfour* case.⁴

All three judges, namely Warrington, Duke L.J., and Atkin L. JJ. based their judgment on the fundamental premise that the mere fact of the parties being husband and wife was sufficient to negate the inference of a legally binding contract. Both Warrington and Duke L.J. focused exclusively on this aspect, contending that Parliament had established a framework governing the rights and responsibilities of spouses. Therefore, if spouses intended to replace this framework with an alternative arrangement, they needed to make their intentions explicitly clear. They concluded whether the interactions between the husband and wife constituted a legally enforceable contract or were merely domestic arrangements. They held that, in this context, there was no clear evidence of an express contract. The nature of their relationship as husband and wife and the absence of a separation agreement rendered the alleged contract unenforceable. Furthermore, the principles of mutual promises in domestic relations needed to be revised to establish a contractual obligation. Atkin L.J. shared this perspective but provided a more comprehensive explanation, establishing a general requirement of "intention to create legal relations" for all contracts. While the courts had previously declined to enforce agreements where the parties had deliberately excluded legal consequences, this case marked the first instance where liability was denied because the plaintiff could not demonstrate an intent to involve legal consequences. The 'intent to create a legal relationship' can now be divided into four components. First, it discusses that contemporary contract law necessitates an 'intention to create legal relations.' It suggests that when the courts are tasked with determining the presence of such an intention in a specific case, they inevitably find themselves in a position to assess whether the agreement should be legally enforced. Secondly, it examines the body of case law commonly categorized today under the rubric 'intent to create legal relations.' It highlights that a substantial portion of this jurisprudence is irrelevant, as many cases would yield the same outcome regardless of whether the law mandated such an intent.

⁴ *Eastland v Burchell* (3 QBD 432 1879)

Thirdly, it proposes that the primary function of this principle is to delineate the boundaries of contract law, confining it predominantly to commercial matters and excluding it from domestic contexts unless the judiciary deems it suitable for intervention. Fourth, it asserts that the contemporary 'intent to create legal relations' in law essentially boils down to this: in cases where parties are engaged in lengthy transactions, commitments are typically enforced. In contrast, within domestic settings, contractual obligations are imposed only if the party seeking enforcement has already fulfilled one side of the agreement and is merely seeking reciprocity.⁵

The Court of Appeal's approach was not to admit agreement and deny consideration but to deny the existence of the agreement itself and by doing this, the court was not only denying the agreement's existence, the court was making a broader statement about the inapplicability of contractual principles to certain types of relationships. In their analysis, the judges considered the absence of an intention to create a legal relationship as a critical factor.

CONCLUSION

In this landmark case, *Balfour vs. Balfour* (1919), the Court of Appeal's unanimous decision to deny the existence of a legally binding agreement in the context of a husband and wife's domestic arrangements evident that informal social agreements within a family lack the capacity for legal enforcement in a court of law. The judgment was based on the principle that contract law should not govern personal relationships and family matters because such agreements do not carry inherent legally binding authority. Additionally, it is essential for there to be a clear intention from both parties to establish a legal relationship and there was no intent on Mr Balfour's part to enter into a contract. It acknowledged that not all agreements between individuals, especially those within the intimate context of marriage, should be subject to the same legal scrutiny as commercial contracts. The decision was not to admit the agreement and deny consideration but to deny the agreement's existence. Consequently, due to these legal principles, Mrs Balfour could not bring a legal suit against Mr Balfour. Thus, *Balfour v. Balfour*'s impact lies in its comprehensive examination of contract formation, especially in domestic arrangements like marriages. It highlights the crucial role of parties' intent in deciding the enforceability of contractual duties.

⁵ Stephen H, 'Keeping Contract in Its Place--*Balfour v Balfour* and the Enforceability of Informal Agreements.' (1985) 5 *Oxford Journal of Legal Studies* 393 <http://www.jstor.org/stable/764516> accessed 10 October 2023