

DE JURE NEXUS LAW JOURNAL

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CASE BRIEF: BALFOUR VS BALFOUR

Court: Court of Appeal (Civil Division)

Citation: [1919] 2 KB 571

Quorum: Warrington LJ, Duke LJ and Atkin LJ

Theme: Married Women's Property Act 1882

Judgement: United Kingdom

Abstract:

There is a bias against the purpose to make a legally enforceable agreement where the agreement is domestic in character, according to a well-known English contract law judgement that held this after three counter arguments. Mrs. Balfour is the respondent/plaintiff and Mr. Balfour is the appellant in the 1919 appeal, which was brought to the English and Welsh Court of Appeal. The judges were Atkin, Warrington, and Duke LJJ. The nation is the United Kingdom.

Keywords:

Causes of action, Intention to create legal relations, Maintenance, Marriage, Oral contracts.

Background/ Brief Facts of the Case:¹

Mr. Balfour was a civil engineer who served as the Director of Irrigation for the government in Ceylon (Sri Lanka) and Mr. Balfour and Mrs. Balfour were married couple and they had a holiday to England in 1915. Unfortunately, Mrs. Balfour became unwell during their trip, and she required immediate medical treatment. Then they discussed and agreed that Mr. Balfour would leave to Ceylon and his spouse, Mrs. Balfour, will remain till she recovered from her sickness. They had also agreed that at that time, Mr. Balfour would give Mrs. Balfour 30 pounds each month as maintenance until everything fell into place, unless she recovered and returned to Ceylon. This understanding and interpretation were reached while their connection was good and there was no animosity between them. However, their relationship steadily worsened, resulting in Mr. Balfour failing to pay Mrs. Balfour's maintenance. Mrs. Balfour, on the other hand, decided to seek enforcement of the agreement and went to court. Mr. Balfour wrote a letter to his wife proposing that they divorce permanently. And later on, they formally separated, which means they were divorced. Mrs. Balfour had launched the case against Mr. Balfour in court in 1918 for non-payment of the money he was required to pay. Justice Charles Sargant ruled that Mr. Balfour had a duty to assist his spouse in the very first step.

Issues Involved:

1. Was the contract between Mr. and Mrs. Balfour valid in nature at all?
2. Does it matter that they were married to each other?

Rebuttal:

Mrs. Balfour sued Mr. Belfour, claiming that he had promised to pay her 30 pounds each month but had not followed through. She insisted that she and her husband had arranged. And that she has the right to deduct the quantity of maintenance costs that her spouse has agreed upon.

Procedural History:

When Mrs. Balfour initially went to trial to seek maintenance, an additional judge from the King's Bench division, headed over by Justice Sargant, declared that the husband is unquestionably responsible and compelled to maintain and manage his wife. It was reasonable to assume that the wife's agreement to this schedule of monthly transfers constituted a necessary contract between the couple. According to the court, Mr. and Mrs. Balfour had a valid contract. The inferior court ruled in favor of the complainant (Mrs. Balfour) and against the respondent in general (Mr. Balfour). The accused's promise to pay the maintenance was valid.

The consideration to the arrangement of a monthly funds transfer was legal and had obligatory requirements. As a result, she got the rule nisi in July of 1919 and the alimony order in December of the same year. The contract was observed and deemed binding by the lower court, but Mr. Balfour appealed to the higher court.²

¹ Balfour v. Balfour, [1919] 2 KB 571

² *Balfour Vs. Balfour*, LAWLEX.ORG, (Nov.17,2021,8:30 PM), <https://lawlex.org/lex-bulletin/case-analysis-of-balfour-vs-balfour-1919-via-irac-method/19819>

Contention the Appellant's Position (Mr. Balfour)

Mr. Balfour and Mrs. Balfour reached an agreement that was solely domestic in character and had no legal responsibilities. Furthermore, Mr. Balfour never had any intention of forming a legally binding arrangement.

Contention the Respondent's Point of View (Mrs. Balfour)

The husband must be obligated to pay her maintenance because he agreed to assist her for 30 pounds in return for her consenting to relocate to England under the personal agreement.

What was Held in this case:

According to the ruling, the contract was simply social and domestic in character, and it was assumed that the parties had no intention of being legally bound by it.

Judgement:

Mrs. Balfour produced a bundle of papers to the Court as testimony of the events that led to Mr. Balfour's promise to support 30 pounds to his wife. Warrington, L.J., questioned if the parties' actions formed a contract or just an agreement. He further explained how no contract was formed 'in express terms,' because if it was, Mrs. Balfour would then have to receive the 30 British pounds her husband provided her, and Mr. Balfour would then have to pay 30 Pounds for an unspecified period, irrespective of his circumstances – implications that cannot be created. He concluded by saying that Justice Sargant's ruling should be overturned and that the appeal must be approved

Arrangements may emerge which never form contracts, according to Atkin, L.J., and the appellant contended that there had been no contract in this case. He claimed that agreements among a married couple are regular types of agreements that are not contracts. He contends that agreements cannot be called contracts in these instances since legal obligations were never foreseen. He noted that terms like these might be amended, deleted, or incorporated as the contract's effectiveness advances (as the case may be). He stated that the petition should be allowed.

Both of these judges' decisions were agreed upon by L.J. Duke.

Analysis:

The central concern before the Court of Appeal in the case of *Balfour v. Balfour* here is whether a normal agreement among spouses when it's all fine between them amounts to a binding contract or does not amount to any contract because it is domestic or social in nature and thus has no intention of building contractual relationship. Although Justice Sargent of the lower court ruled in favor of the wife, honoring the agreement as a contract, the three-judge bench of the Court of Appeal unanimously held that an ordinary domestic arrangement between the spouses, devoid of consideration from the wife's side and no intent on the part of the husband to create legal relations, can't qualify as a contract and was thus difficult to enforce.

The theory, it was said, was about policy making and had nothing to do with domestic agreement. The court cannot get involved in such minor matters as individual and family agreements.

However, there are some conditions in which a husband and wife can enter into a legally enforceable agreement, there were none in this case. The philosophy drew notice and grew in popularity. An *animus contrahendi* is a term used to describe this aim.

Salmon LJ stated in one of the subsequent cases of *Jones vs. Padavatton* that this is genuine in nature. There are no rulings attached to it. One of the most important requirements for entering into a contract is the desire to have a legal connection.³

Another judgment that is usually cited in conjunction with this one is *Merritt vs. Merritt*. Although the couple were married, they had already been separated at the time the contract is made, therefore any agreement among them had to be legitimate in nature in this scenario.⁴

Significance:

In connection with *Merritt v. Merritt*, the case is frequently mentioned. The fact that Mr. and Mrs. Merritt were still married but separated at the time of the agreement, and that any arrangement between them was established with the goal to establish legal connections, is how the court distinguished this case from *Balfour v. Balfour*. Both instances are frequently used as illustrations of the precedent principle.

Conclusion:

A contract would be only valid under common law if both sides consent that it will create legal duties. The parties' intent to form legal relations is adequately determined by analyzing the facts existent at the moment of contract execution. Whether or not a commitment is made, the parties must keep it to the fullest degree possible. The judgement is unenforceable, and also the judges who gave it ruled that the court cannot meddle in marital affairs and that the couples must address their personal issues in full understanding. As a result, the *Balfour Act* offered a new perspective on contract legality. By examining and considering the case of *Balfour vs. Balfour* (1919), We can

³ *Jones v. Padavatton*, EWCA Civ 4 [1968]

⁴ *Merritt v. Merritt*, EWCA Civ 6 [1970]

see that a common human agreement reached within a family cannot be executed inside a court of law, and that such agreements have no legal standing. The parties must also wish to enter into an agreement as the second requirement. Mrs. Balfour was not able to attack Mr. Balfour in a court of law as a result of all this.



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