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Research Article

The Concept of the Principle of Estoppel in the Doctrine of Great Britain and the USA

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Abstract

The relevance of scientific research lies in the fact that the authors of the article explore the legal nature of estoppel in English and American law. Great Britain protects with estoppel the stability of the already established legal connection, and the United States protects with estoppel the confidence in the promise as an independent value of legal circulation. The English legal system fears that over-expansion of estoppel will undermine consensus; the American legal system, by contrast, has long allowed that reliance itself can replace bargain in a number of cases. That is why promissory estoppel in the USA is functionally closer to the general theory of enforceability than in the UK. Estoppel is the central construction of common law, which historically grew out of the procedural and evidentiary mechanisms of Great Britain, but over time turned into a powerful tool for the material and legal protection of trust and the suppression of contradictory behavior. In the doctrines of Great Britain and the USA, estoppel is usually described as a rule of "preclusion": a person is deprived of the opportunity to refer to a fact/right/position if, earlier, by his behavior, he created reasonable confidence in the opposite, and abandoning the previous position will be unfair. The article concluded that estoppel in the UK and the USA has common historical roots, but different trajectories of legislative and law enforcement development. English law has retained doctrinal discipline: promissory estoppel remains an exception built into the system of consideration and limited by the requirements of good faith, clarity of promise and an existing legal relationship. American law, on the contrary, turned promissory estoppel into a more autonomous mechanism for protecting reliance, and collateral estoppel - into a key procedural tool for the inadmissibility of re-consideration of issues already resolved. Therefore, it is possible to talk about a single Anglo-American understanding of estoppel only at a very high level of abstraction; in reality, these are two different models of justice, one corrective, the other largely constituting an obligation.

Keywords

Estoppel, Promissory Estoppel, Proprietary Estoppel, Judicial Estoppel, Good Faith, Bona Fides, Venire Contra Factum Proprium, Prohibition of Inconsistent Conduct

1. Introduction to the Scientific Problem

Estoppel is historically a procedural principle of the Anglo-Saxon legal system. The idea of bonafides in Roman means "good faith," and according to the rules of venire contra factum proprium, which take its basis from UK law enforcement

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practice, no one can contradict their own previous behavior. In the Anglo-Saxon tradition, estoppel is often formulated not as the "right" of the other party, but as a procedural and material barrier: *you are estopped from...* ("you are prohibited from approving/contesting..."). The point is to protect the trust and integrity of justice.

The following definitions of estoppel can be found in the English scientific literature. In Black's legal dictionary, estoppel is defined as:

1) a legal prohibition prohibiting a person from asserting a claim or right that contradicts what that person has said or done before;
2) a legal prohibition that prevents a retrial on a previously considered issue;
3) a method of protection based on the ability to conscientiously rely on previous false assurances [4].

The Cambridge Dictionary contains the following definition: "estoppel is a rule prohibiting a person from changing a previously expressed opinion." [5]

In another legal dictionary, estoppel is presented as "a rule of evidence or a rule preventing a person from denying the veracity of a statement he has made or from denying facts about which he has stated they exist. This denial should entail the actions of a person (presumably a deterioration in his position) who intends to take advantage of estoppel, or his position should change as a result of this [1]."

So, let's consider some concepts necessary for further scientific research.

A. Reliance protection: you cannot first stimulate a certain behavior of the counterparty, and then "switch" and benefit from inconsistency.

B. Procedural fairness: one cannot take mutually exclusive positions for tactical gain (especially in judicial debates).

S. Equity anti-formalism: when a "strict right" leads to a clearly unfair result, equity introduces a limiter through the criterion of unacceptable unfairness. [7]

That is why estoppel was historically perceived as the principle of "procedural origin," but in the 20th century it acquired a pronounced material-legal role (promissory/proprietary/equitable estoppel). [27]

Estoppel in the Anglo-American legal tradition is not one rule, but a group of doctrines united by a common idea of the inadmissibility of contradictory behavior if the other party reasonably relied on a statement, promise or provision already established by the court. At the same time, in the UK, promissory estoppel remains mainly defensive and restrictive, while in the US, promissory estoppel has become a more independent basis of defense of reliance interest and has actually turned into a full-fledged mechanism of claim protection. The article examines the key differences between the British and American models of estoppel, analyzes leading cases and cites the positions of scientists who influenced the understanding of this doctrine.

In Anglo-American law, the term *estoppel* refers to the prohibition of a party to assert something incompatible with its previous behavior, statement or legal position if it would cause injustice to the other party. In the USA, the concept covers both promissory estoppel and equitable estoppel, as well as collateral estoppel, that is, issue preclusion. In British law, the terminological field is also wide, but in contract law it is precisely promissory estoppel that occupies a central place as an equity tool that softens the excessive rigidity of the doctrine of consideration without completely eliminating it. It is most productive to compare the estoppel of Great Britain and the United States through three planes: firstly, through the function of doctrine in contract law; secondly, through the degree of its independence as the basis of the claim; thirdly, through the nature of the protected interest - *expectation* or *reliance*. It is here that the English and American lines of development diverge.

2. Estoppel in the United Kingdom

The classic starting point of the modern English model is Central *London Property Trust Ltd v High Trees House Ltd*. It recognized that if the parties enter into a relationship designed for legal consequences, and one party makes a promise that, as it knows, will be taken seriously and actually causes the behavior of the other party, the court will not allow the promising party to act contrary to such a promise, even if the promise is not supported by consideration in the strict sense. It was *High Trees* that framed promissory estoppel as a means of limiting strict contractual rights in the name of fairness.

However, English law almost immediately set a hard limit to this doctrine. In *Combe v Combe*, the appellate court emphasized that promissory estoppel "may be part of the basis of the claim, but not the basis of the claim in itself," and therefore does not eliminate the requirement of consideration where it is necessary. In a more concise formula, this became known as a rule: estoppel is a "shield, not a sword." In other words, in the British model, promissory estoppel usually serves as a means of defense against the exercise of strict law, but does not create a new independent claim.

The next fundamental touch was made at *D&C Builders Ltd v Rees*. Here the court refused to apply promissory estoppel in favor of the debtor, who obtained the creditor's concession under economic pressure. Thus, English law clearly showed that estoppel does not protect unfair or coercive behavior: its basis is not mechanical reliance, but justice, cleared of abuse. Later, in *Collier v P&MJ Wright (Holdings) Ltd*, the court admitted that the lender's promise to accept part of the debt in certain circumstances could give rise to a triable issue under the promissory estoppel if the debtor relied on such a promise and acted accordingly. It follows that in the UK, promissory estoppel retains four basic features: the presence of a previous or existing legal relationship; a clear promise or assurance; reliance of the other party; and, most importantly, injustice in deviating from this promise. The doctrine does not replace consideration, but functions as a corrective equitable safety valve.

3. Estoppel in The Usa

The American model developed much more radically. It is enshrined in the modern Restatement *(Second) of Contracts § 90* formula that a promise that the promisor should reasonably have expected as a defiant action or abstinence from action, and that did cause such behavior, is binding unless the fulfillment of the promise avoids injustice; whereby the remedy may be limited as justice requires. This formula turned reliance from an exception into an enforceability regulatory foundation in its own right. The early line of American law is clearly visible in *Ricketts v Scothorn*. The court recognized that although the grandfather's promise to his granddaughter was not a counter exchange in the classical sense, it would be "grossly inevitable" to allow his heir to refer to the lack of consideration when the granddaughter changed her position, relying on the promise. Thus, American practice even before §90 clearly showed a willingness to defend reliance as an independent value.

In *Drennan v Star Paving Co.* the Traynor-chaired court went further and relied on commercial predictability. The general contractor has reasonably relied on the subcontractor's offer in preparing its own bid; so the question was posed bluntly: did reliance make the offer irrevocable? The court answered in the affirmative. Here promissory estoppel performs not just a corrective, but a constructive function - it organizes business turnover, keeping the promise from opportunistic withdrawal of the promise.

Even more telling is the case of *Hoffman v Red Owl Stores*. The Wisconsin court recognized that promissory estoppel can also be applied in a situation where a formal contract did not arise, but one party suffered significant losses during the negotiations, reasonably relying on the promises of the other party [8]. The American model, therefore, allows for broader reliance-based liability and willingly protects trust that has arisen even at the pre-contractual stage.

Finally, in the United States, the term *estoppel* itself is much more closely related to procedural savings. In *Parklane Hosiery Co. v Shore,* the US Supreme Court recognized the possibility of offensive non-mutual collateral estoppel, that is, the inadmissibility of re-challenging an already resolved issue even in a dispute with a new plaintiff, if the issue was fully and fairly considered earlier [9]. This shows that in the United States estoppel is not only a contractual, but also a powerful procedural technique for finalizing a dispute.

4. Doctrinal Positions of Scientists

The non-fiction reflects well the distinction between the English and American models. Eric Mills Holmes wrote that promissory estoppel in American law went through "four developmental stages," that is, four stages of development: from defensive estoppel to contract, tort and equity phases. The main thing is fixed [17] in this formula: the American doctrine has long gone beyond a narrow defensive function and has become a multifunctional means of protecting reliance.

Charles Knapp described §90 as "perhaps the most radical and expansive development of the century in the law of promissory liability." [20] This assessment is not an exaggeration: American law did bring a promise that caused reasonable confidence closer to a full-fledged legal obligation, without requiring a classic bargain in the English sense.

At the same time, American literature also contains a critical view. Robert Hillman, examining labor disputes, called the promissory estoppel in this area "colossal failure," since in practice workers won an extremely small percentage of cases. [16] Therefore, American flexibility does not mean automatic efficiency: the expansion of the doctrine also generates a high level of judicial selection, especially where courts fear the erosion of other basic structures, for example employment-at-will.

English doctrine is characterized by a different tonality. Paul Jaffee explicitly points out that "promissory estoppel has not been allowed to give effect to a variation going beyond this," that is, it is not allowed to give strength to such a modification of the contract that goes beyond the rejection of part of the already existing performance. This is a very accurate formula for English restraint: estoppel here does not replace the general theory of the treaty, but works within it and on its periphery.

The divergence within the English-language theory regarding the protected interest is also interesting. In Stephen Headley's broadcast, Andrew Barrows believed that promissory estoppel is "really" expectation-based, while Hugh Collins insisted that "the reliance interest" is decisive. This dispute [15] itself is indicative: estoppel turned out to be the intersection point of contractual, tort and equitable logic, and therefore does not fit without a trace into any of them. Even in modern educational interpretations of the English tradition, the emphasis on the formally restrictive nature of the doctrine remains. The current review of the consideration emphasizes that for promissory estoppel an important element of the doctrine is that by words or conduct a promise has been made. In other words, the English model still requires high certainty of promise and is not inclined to build estoppel on vague expectations.

Lord Denning noted: "Estoppel... it is a principle of equity law. Its essence is that if person A said or did anything leading to the fact that person B relied on a certain state of affairs, then person A must be guided by what he previously said or did, otherwise it would be dishonest on his part." [9]

The widespread opinion in scientific circles that estoppel is a specific invention of common law, according to Palmer V.V. and Peid E., is unfair, since even in Roman private law there was the idea of "venire contra factum proprium," which in historical retrospect turned out to be the ancestor of the further development of the principle of estoppel by matter in pais [22]. Back in those days, this principle provided for a ban on contradictory behavior. An interesting and controversial controversial opinion can be found in the doctrine that the limits of the aforementioned prohibition are within only requirements that contradict the previous actions of the person, and not on the promise of the opposite side.

According to Roor K.A., there are certain legal consequences resulting from the use of the doctrine of legitimate expectations. For example, one of these, he believes that "a person receives, acquires the right to acquire which he legally expected, and the consequence of the use of estoppel is to refuse judicial protection of those rights that are acquired as a result of violation of the ban on changing the previous line of behavior." [29]

John Cartwright believed that "the doctrine is not English private law, but the currently developing public law." [18] In 2003, in Wild J. Challis v. Destination Marlborough Trust Board Inc. A New Zealand court ruled that "estoppel has no place in public law at this time." [25]

It should be noted that in the reality of modern private law there are various legal institutions and structures, the purpose of which is to protect the rights and legitimate interests of subjects of civil trafficking, as well as its stability in general. With all the similarity of these structures with each other, it should be understood that each of them has its own criteria and conditions for use. Therefore, it is necessary to distinguish between them for their correct and most effective use to protect their rights and legitimate interests.

There is also a legal construction similar to estoppel as a waiver of rights. According to Sean Wilken, this legal construction can be described in the true sense of the word as a voluntary or deliberate waiver of a known right, right or privilege. This is a conscious decision that manifests itself in clear behavior that is unambiguous. [28]

If the application of the doctrine of waiver is possible in the opinion of Sean Wilken only in contractual relations, then the principle of estoppel can be guided in situations where waiver cannot be applied, therefore estoppel is a more universal construction in relation to the doctrine of waiver.

There are many different types of estoppel in the English legal system that develop both within the common law and under the law of equity. Each type of estoppel is subjected to a separate analysis in order to achieve justice [19]. Therefore, in our opinion, it is quite difficult to develop a unified theory of estoppel.

In continuation of the above, it is worth noting that any classification of estoppel species is conditional, since there is a variety of estoppel species in the UK and other foreign jurisdictions. Moreover, different types of estoppel are valid and can be used independently of each other. In our opinion, this is due to the fact that the principle of estoppel came into circulation from the right of justice, and is used to balance the interests of the parties and their protection from unfair behavior.

If it is impossible to apply one type of estoppel, it is possible to apply the other in order to protect the rights and legitimate interests of the party that is at a disadvantage as a result of unfair behavior of the other. So, for example, if there is no agreement of the parties and estoppel by contract cannot be applied, then estoppel by conduct can be applied if there are grounds for it.

In English-language special literature, two types of estoppel: Estoppel by Deed and Judge or Verdict Estoppel have an opposite character to each other.

Estoppel by deed acts as a kind of specific prohibition on the possibility of a petition, which, in fact, violates the specific conditions defined in the contract, which confirm the fact of the transaction.

Judgment or verdict estoppel, in turn, is a prohibition on making claims that may contradict the final judgment.

Between these two species, a common can be distinguished. So, for example, when applying estoppel in both the first and second cases, some facts should be accepted by the parties as truth. Speaking of differences, these species can be distinguished from each other by the reasons for the use of estoppel. When judging or verdict estoppel, the question of what facts will be taken as truth by the court, and the reason for applying this type of estoppel is a court decision. In the case of estoppel by deed, the persons who concluded the transaction by their actions give certain facts the truth, that is, agree on them and independently establish what facts will be true for the parties.

As for Estoppel by deed, it should be noted that this type of estoppel has certain advantages over other species. In this case, when applying estoppel, it is not necessary to prove the connection between the decision made by a bona fide party and a decision based on contradictory behavior of the other, because otherwise the party relying on its good faith did not join and would not want to enter into contractual relations, let alone sign an agreement. [23]

A separate group of estoppel varieties is estoppel, which prohibits claims that contradict the record (estoppel by record) - judgment or verdict estoppel and legislation estoppel.

Since record is a written official record of the course of the proceedings (an analogue of the protocol in Russia), this concept can be translated literally as protocol estoppel. It has another name - estoppel per rem judicatum, which means estoppel from a court decision [10].

Legislation estoppel is a prohibition on objection, which is a response to a controversial statement by an unscrupulous person about the illegality of a legal act. So, for example, if an unscrupulous person participates in the adoption of a legislative act, and then acts in his interest, this person subsequently loses the right to declare it unconstitutional.

Judgment or verdict estoppel is a type of estoppel that prohibits making claims in the same dispute between the same parties if a proper court has made a final decision on that dispute.

Judgment or verdict estoppel shall be applied only on the basis of a court decision that has entered into legal force. Its meaning is that this type of estoppel can be applied only in the case of a final and legal decision of the court subject to execution, otherwise a new claim may arise on the same grounds.

There is another classification of estoppel in foreign doctrine, which forms a whole group and unites certain types - by matter in pais. Thus, thanks to the by matter in pais institution, an unscrupulous party is deprived of the right to object to a statement already made by itself, which in turn had the purpose of influencing the behavior of a conscientious party by relying on such a statement, in this regard, as true, leaves him with losses incurred [26].

Estoppel by matter in pais itself is not based on a written agreement or act (record), unlike other types of estoppel. It applies in cases where a contradictory change in the position of an unscrupulous party may lead to obvious injustice towards the other party.

A common type of estoppel by matter is estoppel by conduct, aimed at protecting the rights and interests of the bona fide party, in addition to estoppel by deed and estoppel by contract. After entering into certain legal relations, the parties develop a general idea and a specific model of behavior, which implies conscientious actions of counterparties. The legal construction of estoppel by conduct prohibits and refuses the unscrupulous party to exercise the right to demand false representations in the event that the actions of the unscrupulous party that have already taken place between the participants in the legal relations were influenced [3].

Also in the doctrine there is a type of estoppel Estoppel by Silence, which is based on silence and is inherently a continuation of Estoppel by Conduct. It applies when a party by its inaction misleads the other party as to the truth of some facts. Such a "silent" party is deprived of the right to contradict the circumstances on which the bona fide party relied due to the maintenance of silence. Therefore, estoppel by silence acts as a means of protecting a bona fide person if the behavior of an unscrupulous party is passive.

It seems interesting that in countries such as Canada and the United States, the doctrine of Prosecution History Estoppel has spread, according to which, in particular, in patent law, the copyright holder is deprived of the right to refer to the theory of equivalents and broadly interpret the scope of legal protection of the invention if during the procedure for obtaining a patent, the patent holder made statements limiting the scope of claims. Thus, Prosecution history estoppel by its nature prevents the inclusion in the scope of the patent holder of what he refused in the process of obtaining a patent [8].

For example, an applicant cannot invoke the doctrine of equivalence by requiring a broad interpretation of the features of a paragraph of a formula that he has previously narrowed by modification. By changing the characteristics of the formula, the applicant recognizes and emphasizes the difference between its old and new elements and declares a waiver of all claims and for everything that goes into the difference between what was and what became [14].

Another estoppel that is often used in American courts can be distinguished - this is indirect estoppel. It is mainly applied in cases of violation of exclusive rights and invalidation of a patent. So, for example, when considering a new court case, the court will not consider individual rules of law or facts established in another case concerning the same subject (against which the trial is being conducted).

This legal protection is carried out under the following conditions:

1) the issue to be considered coincides with the issue considered in another case;
2) the issue is actually settled and resolved within the framework of the first case;
3) the decision on the case was necessary for the adoption of the first decision; and
4) the party to whom the confiscation applies had a full and fair opportunity to resolve the issue in the first case.

5. Restatement (Second) of Contracts § 90 (1981)

Let us dwell in more detail on the section of the authoritative code of American common contract law prepared by the American Law Institute. It is not a law in the formal sense and is not binding on its own, but it is widely invoked and often accepted by US courts as a compelling source of law. In the Restatement structure, this section is located in the part on consideration, that is, exactly where the question is solved when the promise should be recognized as legally binding. [2]

Meaningfully, § 90 formulates the doctrine of promissory estoppel as the basis for the enforcement of a promise in the absence of a classic counter-provision. In the 1981 version, the section has two parts. Subparagraph (1) enshrines a general principle: a promise becomes binding if the promisor should have reasonably foreseen that it would cause action or abstention from action if such conduct did follow, and if only the performance of the promise avoids injustice. At the same time, Restatement itself specifically adds that the remedy may be limited to the extent that justice requires it. Subparagraph (2) takes another step: a charitable promise and a promise as part of a marriage settlement may be binding even without proof of actual induced reliance.

Doctrinally, § 90 means that American contract law recognizes: not only bargain, but also reliance can be an independent basis of enforceability. In other words, the legal obligation of a promise is derived not from the exchange model, but from a combination of three factors: a promise; predictable and real trust behaviour of the addressee; the need for judicial intervention in the name of preventing injustice. Cornell Law School, in its modern wording, explicitly describes promissory estoppel as a situation where a promisee can recover damages if he reasonably and unfavorably relied on the promise, and promisor could reasonably foresee such reliance; this protection is possible even in the absence of a full contract and consideration. [11]

If § 90 is disassembled as a legal test, it includes several sequentially verifiable elements. First, there must be a promise, not just an indeterminate expectation or abstract intention.

Secondly, the person who promised should have reasonably expected that the addressee or even a third party would change his behavior, relying on this promise. Third, reliance must be factual, meaning the behavior must indeed be driven by promise. Fourth, the court must conclude that injustice will arise without the enforcement of the promise. The commentary to § 90 specifically emphasizes the flexibility of this assessment: the court takes into account the reasonableness of reliance, its certainty and materiality in relation to the requested remedy, the formality of the promise, the commercial context and how other legal policies - for example, support for bargain theory or prevention of unjust enrichment - matter in a particular dispute. Compared to the first Restoration, § 90 in the second edition has been significantly expanded and softened. The strict requirement that reliance have a "definite and substantial character" in the norm itself has disappeared from the text; instead, the second revision moved the question of weight and quality of reliance into a more flexible assessment of fairness. Further, the new edition explicitly allows third-party reliance, not just promisee. More importantly, she adds the phrase that remedy may be limited as justice requires, that is, it allows not only full contractual recovery, but also a narrower remedy. Finally, a separate subparagraph (2) on charitable subscriptions and marriage settlements appeared in §90. Commentators and researchers directly associate these changes with the intention to make promissory estoppel more accessible, strengthen the role of reliance and give courts greater freedom in choosing remedy. [12] (verkerkecontractsone.lawbooks.cali.org)

How should the phrase "injustice can be avoided only by enforcement" be understood? This is the central and at the same time the most evaluative element of §90. It means that the court is not automatically obliged to fulfill any promise to which someone referred; on the contrary, promissory estoppel remains the exception, and not the general rule for all informal promises. That is why §90 does not completely destroy the doctrine of consideration, but creates a corrective mechanism around it. At the theory level, this is well expressed in the scientific literature: Edward Yorio and Steve Tel wrote that §90 in the second edition is conceived primarily as a construction based on reliance principles; at the same time, the Restatement article itself builds this institution not as a mechanical sanction for a promise, but as a flexible formula in which the judgment of justice remains decisive. [12]

Protection problem: reliance damages or expectation damages

From a scientific point of view, one of the most interesting features of § 90 is that its text allows a limited remedy, but judicial practice is far from always limited to purely reliance damages. An empirical study by Marco J. Jimenez, covering more than 300 cases, showed that after the publication of Restatement (Second), it is not uncommon for courts to treat promissory estoppel claims almost as ordinary breach of contract claims and often award more generous expectation-based protection, not just narrow reliance loss compensation. The study also showed that most judges actually require both promise and reliance, while the justice element is formally present in the norm, but does not always play an independent and detailed motivated role in judicial acts. [21]

In a scientific sense, § 90 represents one of the most important "bridges" between classical contract law and the law of justice. It shows that the American legal system allows an obligation to arise not only from an exchange, but also from a trustworthy one. Therefore, §90 should not be understood as a "private episode" and not as one thing, but as a general doctrinal formula, from which a large line of American practice then grew - from pre-contractual liability to the protection of charitable promises and complex commercial reliance situations. That is why this section is considered one of the most cited and most conceptually influential provisions of the entire Restoration (Second) of Contracts. [2]

6. Case Hoffman v Red Owl Stores, INC., 26 WIS. 2D 683, 133 N.W. 2D 267 (1965)

Hoffman v. Red Owl Stores, Inc., 26 Wis. 2d 683, 133 N.W. 2d 267 (1965). This is one of the most famous American cases of promissory estoppel and at the same time one of the key precedents on the admissibility of the protection of pre-contractual *reliance*. The Wisconsin Supreme Court did not focus on the existence of a contract, but on whether a person could receive judicial protection if he suffered losses, consistently relying on the promises and assurances of the counterparty during lengthy negotiations on a future franchise. The court explicitly stated three main questions of the case: whether Wisconsin should recognize the promissory estoppel under § 90 Restatement, whether the facts of the dispute form the basis for such a defense, and whether the claimed damages are supported by evidence. (JustiaLaw)

The plaintiff, Joseph Hoffman, owned a bakery and sought to become a franchisee of the Red Owl Stores supermarket chain. Negotiations with company representative Ed Lukowitz developed as a phased process: Hoffman was made it clear that with a certain amount of capital and after completing a number of preparatory actions, he would receive the Red Owl store. He was informed early on that $18,000 would be enough to start the venture. Then, following the instructions and assurances of a representative of the chain, Hoffman first acquired a small grocery store to gain management experience, then was actually prompted to sell it, pay $1,000 for a plot in Chilton, sell his bakery, incur relocation and rental costs, and rebuild his financial structure under the proposed franchise. After that, the required amount of own funds increased sequentially: first to $24,100, then another $2,000, and ultimately Red Owl began to insist on a significantly higher amount, actually unattainable for the plaintiff.

From a legal point of view, it is fundamentally important that the negotiations did not end with a formal franchise agreement. All significant conditions of the future enterprise, including the final financing structure and a number of operational parameters, have not been finalized. However, Red Owl's behavior went beyond the usual preliminary negotiations: the company did not just discuss the possibility of concluding a deal, but directed the plaintiff's behavior, gave him specific guidelines and consistently encouraged him to make costs and alienate assets for the sake of the future project. It was this bundle - the absence of a completed contract in the presence of a real induced reliance - that made the matter doctrinally significant [13].

Prior to Hoffman, Wisconsin law did not recognize § 90 Restatement as an independent cause of action. The court itself noted that previous Wisconsin annotations to Restatement expressed doubt that such a design would be accepted by state courts at all. Therefore, the case was not only applied, but also of systemic importance: the State Supreme Court faced the need to decide whether it was permissible in principle to provide protection to the plaintiff when there was no classical contract and, therefore, there was no ordinary breach of contract claim. The court pointed out that other possible constructions, primarily fraud and deceit, are not applicable here, since it was not proved that the representative of Red Owl initially acted with the intention of deceiving or not fulfilling his promises. Thus, promissory estoppel was perceived as a special corrective mechanism to fill the gap between a strict contractual model and the requirements of fairness.

A key outcome of the decision was that the Wisconsin Supreme Court explicitly adopted § 90 Restoration of Contracts as the current basis of action. The court reproduced the classical formula: a promise that the promise should reasonably have been expected to induce action or abstention from action of a certain and significant nature, and which really caused such behavior, is mandatory if injustice can be avoided only through its enforcement. After that, the court explicitly stated that promissory estoppel is a "necessary tool" that courts can use to prevent injustice in appropriate cases. For Wisconsin law, it was doctrinal turning point: from a hypothetical construction of § 90 to a recognized judicial instrument.

The court further formulated three questions to be examined in each promissory estoppel case:

1) whether the promise was such that the person promising should reasonably expect reliance on the part of the addressee;
2) whether it actually caused such reliance;
3) whether injustice can be avoided only through judicial intervention.

At the same time, the court specifically emphasized that the first two elements are usually factual and can be established by a jury, while the third element - injustice - is already a policy decision of the court. This is one of the most cited points of the decision because it shows: promissory estoppel in American law is not a mechanical formula, but a combination of factual verification and judicial evaluation of justice.

Why the court recognized the presence of a promise, despite the absence of a contract

The most interesting part of the court's argument is related to the question of the degree of certainty of the promise. The defendants argued that the promises of Red Owl were too vague and incomplete: all the essential terms of the franchise were not agreed, and therefore no legally significant promise existed. The court rejected this approach. He explicitly pointed out that the promissory estoppel does not require that the promise cover all the details of a future deal so fully that, if there is a consideration, a full-fledged contract automatically arises from it. In other words, a promise for the purposes of § 90 is not identical to an offer in a strict contractual sense. It is enough that the promises and assurances were specific enough to reasonably prompt Hoffman into a series of costly and irreversible actions.

It was here that the case became a turning point for the entire topic of pre-contractual responsibility. The court recognized that preliminary commercial communication can produce legal consequences, even if the parties have not yet reached a final agreement on all essential terms. From a practical point of view, this meant a shift from the classical contractual model to the model of protecting trust: legal significance acquired not only what the parties formally signed, but also how one side led the other through the negotiation process and what costs this led to.

Equally important is the position of the court on the issue of damages. The Supreme Court specifically warned against identifying the promissory estoppel lawsuit with the usual breach of contract lawsuit. He pointed out that it would be a mistake to consider such a design as the equivalent of a contractual claim, and thereby made it clear that the reliance interest is protected here, and not a full-fledged expectation interest. The court upheld a number of damages awarded directly related to actions committed in trust for the assurances of Red Owl: loss from the sale of a bakery ($2,000), loss of $1,000 spent on a site in Chilton, $125 rent for housing and $140 moving costs. At the same time, in relation to large claims related to the sale of a grocery store and the assessment of the possible benefits of the business, the court took a more restrictive position and agreed that the recovery should not go beyond the actually proven loss from changing the position of the plaintiff.

It is especially significant that the court referred to the scientific literature and actually adopted an idea typical of the reliance approach: the misconduct here is primarily not in depriving the plaintiff of the promised benefit as such, but in the fact that the plaintiff was prompted to change his position to his detriment. Therefore, the protection measure should be focused primarily on the loss from this change in position. This is one of the early and influential judicial confirmations that promissory estoppel may not lead to "full fulfillment of the promise," but to compensation for detriment caused by reliance.

In American doctrine, Hoffman is traditionally regarded as a landmark case for two reasons. Firstly, it significantly expanded the practical significance of promissory estoppel. Secondly, it has become a symbol of the possibility of recovering losses for precontractual reliance, that is, for trust that arose even before the conclusion of the final contract. This is how William Whitford and Stuart Macaulay characterized the case: in their assessment, Hoffman is usually considered as one of the decisions that expanded the reach of promissory estoppel and opened the issue of liability for precontractual reliance. At the same time, the authors themselves, having studied the full procedural material and talking with Hoffman himself, came to the conclusion that the result of the case was generally fair, although the judicial presentation of the facts in the textbook tradition turned out to be too simplified.

7. Modern Scientific Controversy Around Hoffman

Later science, however, took the case ambiguously. Robert Scott, for example, argued in a famously critical article that the traditional reading of Hoffman as a precedent for broad liability for pre-contractual trust was misleading. According to him, the factual material testified not so much about freely floating promises during the negotiations, but about a more complex misunderstanding about the structure of Hoffman's capital investments and the conditions under which Red Owl was ready to admit him to the franchise. Hence, Scott drew a more general conclusion: the courts in reality rarely recover losses simply for reliance during preliminary negotiations, if the parties have not reached at least some preliminary agreement. Whitford and Macaulay, on the other hand, believed that a more complete reconstruction of the facts did not refute, but rather confirmed the fairness of the outcome: in their opinion, Hoffman had reason to believe that after certain actions - selling the bakery and reorganizing his assets - the franchise would indeed be granted to him. Therefore, they saw the case not as a dangerous outlier, but as a completely "mainstream" example of responsibility for pre-contractual trust in a situation where a strong side directs and structures the investment behavior of a weak side. This controversy is extremely important: it shows that Hoffman remains not just a historical precedent, but a field of struggle between two models of contract law - formal-conciliation and reliance-oriented.

Doctrinally, the Hoffman v. Red Owl Stores case has at least four lasting effects. First, it enshrined the possibility of judicial protection in the absence of a classic contract, if there are promises that reasonably cause reliance. Secondly, it showed that promise for the purposes of promissory estoppel does not have to be as complete as the offer in classical contract law. Thirdly, it recorded that the element of injustice is not just a technical feature, but an independent value filter, which the court applies as a policy judgment. Fourthly, it reinforced the distinction between expectation damages and reliance damages, stating that in promissory estoppel the court is not obliged to award the entire amount of the expected benefit, but may limit itself to compensation for losses caused by a change in the position of the plaintiff.

Hoffman v. Red Owl Stores is a precedent in which an American court actually said the following: even if the contract has not yet been concluded, a large commercial counterparty has no right to lead the other party through a series of costly steps without consequences, constantly confirming the proximity of the transaction, and then retreat, leaving it with losses. That is why the case has become a classic example of how promissory estoppel has transformed from an auxiliary equitable design into an independent mechanism for protecting trust in pre-contractual relations.

The "Pickard v. Siars" (1837) case on estoppel states the following: when someone, by his words or conduct, causes another person to deliberately believe that there is a particular state of affairs and facilitates that other person to act in accordance with such a belief or to change his former conduct, the first person is deprived of the right to prove against the second person that there was in fact a different state of affairs at that time.

8. Conclusions

Thus, based on the study, the following conclusions can be drawn.

Estoppel in the UK and the USA has common historical roots, but different trajectories of legislative and law enforcement development. English law has retained doctrinal discipline: promissory estoppel remains an exception built into the system of consideration and limited by the requirements of good faith, clarity of promise and an existing legal relationship. American law, on the contrary, turned promissory estoppel into a more autonomous mechanism for protecting reliance, and collateral estoppel - into a key procedural tool for the inadmissibility of re-consideration of issues already resolved. Therefore, it is possible to talk about a single Anglo-American understanding of estoppel only at a very high level of abstraction; in reality, these are two different models of justice, one corrective, the other largely constituting an obligation.

In the UK, promissory estoppel is primarily a constraint on the exercise of strict law; in the United States - an independent mechanism for the forced protection of reasonable trust. [6] The English model is more closely related to already existing legal relationship and to defensive use, while the American model allows offensive use both at the negotiation stage and in the absence of a final agreement. [24]

Great Britain protects the stability of the already established legal connection with estoppel, and the United States also protects confidence in the promise as an independent value of legal circulation. The English system is afraid that the excessive expansion of estoppel will undermine the consensus; American, on the contrary, has long admitted that reliance itself can replace bargain in a number of cases. That is why promissory estoppel in the USA is functionally closer to the general theory of enforceability than in the UK.

In doctrine and practice, various types of estoppel can be applied. All the variety of estoppel varieties is designed to protect the interests of the bona fide party. It should be borne in mind that in relation to the Russian legal system, it will be impossible to blindly borrow the experience of foreign countries of the Anglo-Saxon legal system, since the judicial precedent for our legislation, although it is important for practice, has no legal force and is not a source of law. However, one cannot fail to notice the value of individual types of estoppel contained in foreign doctrines, because each type has its own role, its own basis of application, and if one cannot be applied, then another type of estoppel can be applied.

The doctrine of legitimate expectations and the principle of estoppel certainly has differences. For example, the first, unlike the second, is implemented only in public and private-public legal relations. In the case of protecting legitimate expectations, the public interest is most often protected, and estoppel protects private interests. In addition, legitimate expectations are based on the principle of legality and publicity of power, since in case of violation of this doctrine, the stability of the state becomes threatened.

Abbreviations

UK	United Kingdom
USA	United States of America
US	United States
Ltd	Limited
Co	Company
Inc	Incorporated
CA	Court of Appeal
EWHC	England and Wales High Court
HCA	High Court of Australia
KB	King's Bench
UKHL	United Kingdom House of Lords
Wis. 2d	Wisconsin Reports, Second Series
N.W. 2d	North Western Reporter, Second Series

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