SHERIFFDOM OF TAYSIDE, CENTRAL AND FIFE AT KIRKCALDY

[2026] SC KDY 115

KKD-SG197-26

JUDGMENT OF SHERIFF JOHN A MACRITCHIE SSC

in the cause

JAMES ALLAN MUNN BLACK

Claimant

against

PETER JAMES LOCKETT

Respondent

Claimant: Party
Respondent: Party

Kirkcaldy 1 October 2026

Introduction

[1] This dispute concerns an oral contract, collateral to missives concluded for the sale of the claimant's substantial heritable property. The claimant maintains that he and the respondent agreed to the sale of most of the moveable contents in and around the house for an agreed price of £5,000. These contents were the entire moveable contents in the house, other than a small number of retained and gifted contents. The respondent denies agreeing to this contract.

[2] The issues to be determined are whether the parties agreed to an enforceable collateral contract to sell these contents; whether that contract was later reaffirmed, although varied; if these contents were sufficiently ascertained so that ownership passed to the respondent on their being delivered to him, through being left by the claimant in the

house on the date of entry; and whether the respondent is liable for the £5,000 price claimed.

Background

[3] The respondent had first visited the house in connection with its prospective purchase. Following submission of an offer to purchase the house, (which offer was later accepted and the sale completed), the parties exchanged text messages concerning the possible separate purchase of contents. The respondent returned to the house and viewed the contents, at which time the claimant asserts that an oral contract to sell these contents was agreed.

[4] During an atmosphere which was at times charged, evidence was given by the claimant, the respondent and the respondent's spouse, Nina Lockett.

[5] The parties accepted that the lodged text messages, screenshots, call records and photographs were what they bore to be.

Summary of the Disputed Evidence

[6] The claimant maintains that the respondent contracted to purchase these contents, thereafter, attempted to depart from that contract in a text message, but in an immediately following telephone call reaffirmed the contract although parties agreed to postpone payment.

[7] The respondent denies this and latterly maintains there was only an open process for his potential later selection and purchase of contents.

[8] The respondent's position at the hearing differed materially from the Response Form, which asserted that the claimant had abandoned the contents after being offered an

opportunity to collect them. At the hearing, the respondent stated that abandonment was no longer his factual position.

Findings in Fact

[9] The claimant is James Allan Munn Black. The respondent is Peter James Lockett.

[10] The claimant and his spouse formerly occupied and were the sellers of a substantial house in Methil, Fife ("the house"). They publicly offered the house for sale. The house was fully furnished.

[11] On 26 May 2025, the respondent and his spouse visited the house with a view to its prospective purchase.

[12] On 28 May 2025, the respondent and his spouse submitted an offer to purchase the house.

[13] On 4 and 6 July 2025, the parties exchanged text messages concerning whether the respondent and his spouse could again visit the house relative to the possible separate purchase of contents.

[14] On 6 July 2025, the respondent returned to the house with his spouse, mother and his mother's partner and again viewed the contents.

[15] During the viewings the respondent had expressed a liking for a wooden workbench and vice, an electric saw, a lawnmower, copper patisserie pans and a Glenfinnan Viaduct picture (the "gifted contents"). The claimant had indicated to the respondent that he was prepared to leave these in the house without requiring any payment for the same.

[16] The claimant also indicated to the respondent that he was downsizing and intended to only retain personal and sentimental items, namely clothing and personal pictures, and an identified double bed, two single beds and two lamps (the "retained contents"). The

claimant told the respondent that he was otherwise prepared to sell all the house contents and leave them in and around the house at the date of entry.

[17] These contents were situated in and around the house and were visible during the respondent's viewing on 6 July 2025. These were identified by their physical presence and by the agreed exclusion of the retained and gifted contents.

[18] These contents comprised the following corporeal moveable goods viz: a velvet sofa, two red velvet chairs, a gold glass side table, a large bathroom mirror, a large gold-framed picture, two further gold-framed pictures, two antique fireside chairs, a towel rack, a large footstool, a small footstool, a floor candelabrum, a cocktail trolley, a large shower-room mirror, two standard lamps, a French bench, a silver ice bucket and stand, a wooden butler's tray, two gold-framed photographs, a gentleman's clothes stand, a large ornate gold mirror, three chests of drawers, a chaise longue, a gentleman's red velvet chair, a large antique gold-framed tapestry, two three-seater sofas, two vases, a heavy black sculpture, a nest of coffee tables, a designer wool rug, a copper coal bucket, four red velvet balloon chairs, a four-seater sofa, a large chair, a gold-framed overmantel picture, a large wall mirror, two antique gold nests of side tables, a wooden coal scuttle, a French grandfather clock, a hall table, an antique gold mirror, two large porcelain vases, a large black mother-and-baby bust, a large antique brass flowerpot, an oak coat bench, a wooden canopy-dressed bed, bedside tables, two double wardrobes, two vintage bedside lamps, a gold overmantel mirror, a candlestick and ornaments, a German ceramic plant pot, a lamp stand and bust, a white blanket chest, a leather antique desk, two leather desk chairs, a large display unit, a bookcase, a Persian rug, a large black-and-gold framed picture, a wooden standing mirror with a drawer, a heating cabinet, artificial flowers, candles, vases, frames, curtains, a broken industrial vacuum cleaner, two small clocks, a vintage telephone, bottles of alcohol, a very large wall clock, a

very large floral decoration, a very heavy garden sculpture, a garden bench, a garden chair, garden carpets, a solar lamp, two bar tables, used non-recyclable paint pots, a wheelbarrow, cement, shovels, a broom, tools, rolls of artificial grass, bricks, slats and pieces of wood (the "disputed contents").

[19] The claimant offered to sell the disputed contents to the respondent as a lot, at a price of £7,200. The respondent rejected this offer.

[20] The claimant then offered to sell the disputed contents to the respondent as a lot for £5,000. The respondent called through to his spouse who was in another room with the claimant's spouse, "We can have the lot for £5,000". The respondent then turned to the claimant and accepted the claimant's offer by stating to the claimant, "That's fine, I can do that, £5,000", following which the claimant and the respondent shook hands.

[21] The parties thereby concluded a contract to sell the disputed contents for the single price of £5,000, to be left in the house on the date of entry.

[22] On 31 July 2025, the claimant messaged:

> "we've started packing things up here, and we're wondering what you guys don't want us to leave for you, ornaments, vases, etc mattress from the double bed, we're happy to leave whatever you want except for some sentimental stuff etc".

[23] The respondent replied: "I guess keep the vases and the mattresses if its new, other than that nothing else, we're wanting the space as we'll probably be living out of boxes for a bit".

[24] These messages concerned practical arrangements regarding the potential disposal by the claimant of any insignificant unwanted items in the disputed contents, such as ornaments and vases. This was but an offer from the claimant to dispose of any of the disputed contents that the respondent was not specifically wanting to be left by the claimant.

[25] That is apparent from a text message on 22 September 2025, when the claimant messaged: "Regarding the furniture that's been left how are you planning to make payment".

[26] The respondent replied: "About the furniture, I was hoping to take stock of what we're using after a month or so and probably bank transfer it or if you wanted the cash id take it out".

[27] The claimant, clearly confused by this response responded,

> "Not sure what you mean by waiting to see what you use furniture wise, just that we don't really want to start to sell anything at this time, and would have nowhere to store it, not sure if I've picked you up right.."

[28] The respondent further messaged,

> "I was hoping to be able to save further money and only 'keep' what we want to buy. And the remainder is what you sell and the 'storage' side of it is not the problem because we'd keep it in the house and help you with selling since it's yours until money hands over basically", and
>
> "I don't know what the final 'bill' is essentially just yet with all the moving things and my bonus isnt paid till February".

Parties then agreed to speak on the telephone.

[29] Those messages were an attempt by the respondent to substitute a selection arrangement for the contract to sell the lot of the disputed items concluded on 6 July 2025.

[30] During the immediately following telephone call the claimant reminded the respondent that the contract was for the disputed items as a lot for £5,000. The respondent referred to having financial pressure as indicated in said message and again to his employment bonus not being due until February. The claimant then agreed to defer payment until the bonus was available, no later than the end of February 2026. The respondent reaffirmed the £5,000 bargain and said in response to the claimant's expressed concerns about the respondent's apparent attempt to renege on their agreement: "You'd

think you'd know me by now. I am a man of my word." This varied only the time for payment.

[31] Entry to the house took place on 24 September 2025. The missives for the sale of the house were also concluded on that date, the transaction being part of a significant chain. The claimant left the disputed and gifted contents in the house as agreed. By doing so, the claimant delivered the disputed contents.

[32] On that date at approximately 4.23 pm, in a telephone call the claimant apologised for leaving small bric-a-brac such as pots, figurines and dolls, which he suggested might be disposed of at a car-boot sale. That discussion concerned these minor items only and there was no request that the claimant remove any of the disputed contents forming the subject matter of the concluded contract.

[33] Thereafter, on 6 October 2025, the claimant attended the house in connection with collecting BT equipment that he required to return to them and later still in January 2026 delivered historical documents relating to the house.

[34] Between entry and 2 March 2026, the respondent did not claim to anybody that the disputed contents had been abandoned, complain about their continued presence, disclose that some had been sold or disposed of by him since entry, or ask or require the claimant to remove any of them. On the contrary, the respondent accepted delivery without objection and did not ask the claimant on entry or during the following five months, to remove any of the disputed contents.

[35] On 2 March 2026, after the agreed time for payment had expired, the claimant sent the respondent the following message: "Morning Peter I am looking to see if your going to make that bank transfer of 5,000 regarding the house contents I left."

[36] The respondent replied: "Not at the minute no, i dont have that money available", and referred to other expenditure and personal circumstances before adding: "A lot of the stuff still remains though if you wish to collect." The respondent did not state that no £5,000 bargain had been concluded or that the sum was not due but explained that he did not have the money available at that time.

[37] In the exchanges which followed, the respondent stated that he had sold some of the disputed contents and initially offered to pay the claimant £600 immediately, describing that as money which was "rightfully" the claimant's.

[38] The respondent thereafter altered that account and stated: "Sorry, my last message wasnt complete, we sold for a total of 1300, i meant to say. 600 now 700 next month. Thats rightfully yours ofc." The respondent identified the wooden canopy-dressed bed, sofas, a mirror, the chaise longue, a medium mirror, and a small sculpture as having been sold.

[39] The respondent had also donated unidentified items from the disputed contents to charity without first informing the claimant.

[40] The respondent had offered to pay the £600 immediately and pay £700 the following month, subject to the claimant confirming that all of the remaining contents were no longer the claimant's property.

[41] After further exchanges, the respondent stated that the £1,300 was offered without admission of liability and required the claimant to confirm that it represented full and final settlement of all matters concerning the contents.

[42] The claimant refused that condition. The respondent then withdrew the offer.

[43] No part of the £5,000 agreed price, or of the proposed £1,300, was paid.

Findings in Fact and Law

[44] The parties' contract satisfied the legal requirements for a contract to sell having identified the parties, agreed to transfer the identified disputed contents by leaving them in the house at entry as happened, agreed the price of £5,000, and intended to undertake reciprocal legal obligations.

[45] The disputed goods were visible and identified during the viewing on 6 July 2025 and were agreed upon as the subject matter of the sale by reference to all the contents situated in and around the house, subject only to the identified retained and gifted contents. They were therefore specific goods within section 61(1) of the Sale of Goods Act 1979 ("the 1979 Act") and were ascertained when the July agreement to sell was concluded.

[46] The September variation of the contract reaffirmed the July bargain and varied only the time for payment to no later than 28 February 2026.

[47] Under sections 2(5) and 2(6), 4, 16, 17 and 18 of the 1979 Act, the agreement to sell became a sale, and property in the disputed goods passed to the respondent, at entry on 24 September 2025, as the parties intended.

[48] The gifted contents passed to the respondent separately and were not part of the priced lot.

[49] The claimant delivered the contents in accordance with section 27 of the 1979 Act by leaving them in the house. The respondent accepted them and was bound to pay in accordance with the varied payment term.

[50] The respondent wrongfully refused to pay the price after the payment date had passed. The claimant is entitled under section 49(1) of the 1979 Act to maintain an action for the agreed price of £5,000.

[51] The oral sale was separate from the sale of the house. No proved term of the missives excluded or superseded it.

[52] The claimant is entitled to £5,000, with judicial interest at 8% per annum from 11 May 2026, that being the last date for service of the Claim Form, and expenses.

Credibility and Reliability

Claimant's Credibility and reliability

[53] I found the claimant credible and reliable in essentials. No corroboration was legally required. I nevertheless treated the absence of an independent witness to the final acceptance as requiring caution and tested the claimant's account against the messages, subsequent conduct and inherent probabilities.

[54] His core account was consistent and supported by the agreed messages, the leaving of the disputed and gifted contents, the absence of any request for removal by the respondent, the respondent's sale of some of the disputed contents without permission, the February bonus reference in text messages and the respondent's initial failure to deny the debt when the sum sued for was demanded on 2 March 2026. The claimant properly conceded that his spouse only heard the £5,000 figure but not the final words and acts of acceptance.

Respondent's credibility and reliability

[55] I did not find the respondent's evidence reliable on the central disputed issues. That conclusion is not based upon a single mistake, an isolated contradiction or an infelicitous turn of phrase. It follows from numerous material inconsistencies between the respondent's Response Form, oral evidence, agreed messages and conduct.

[56] Some discrepancies might be explained by stress, medical issues arising from an assault, or imperfect recollection that could affect reliability. The abandonment account is different because the respondent accepted both that it was factually inaccurate and that he had chosen what he considered to be the strongest defence. That admission significantly affects the reliability of the evidence he gave.

[57] The Response Form pled abandonment as the factual foundation of the response. The respondent stated that, after taking entry, the claimant had left a large number of items in the house; that the respondent had notified the claimant and offered the claimant an opportunity to collect them; and that, when the claimant failed to do so, the respondent sold or disposed of some of the disputed contents as a reasonable response to them being left after completion.

[58] At the evidential hearing, however, the respondent accepted that no request to collect the substantial disputed contents was made during the five months following entry.

[59] The respondent's eventual position was that the first specific offer for collection of the disputed contents was made on 2 March 2026. The respondent ultimately accepted that the abandonment account was "not accurate and it is not the position that I'm taking now". That was not a clarification or refinement. It was the withdrawal of a material factual assertion upon which the written response had been founded.

[60] The respondent's explanation also demonstrated that the inaccurate account had been consciously selected as a litigation position. The respondent said, "Honestly, I went with what I thought the strongest defence would be at the time."

[61] The respondent also said, "what I said in the response form is not necessarily the position that I've got now", and that he had been "trying to pre-empt and to try to get the matter concluded". When the court asked the respondent if he was saying that he had made

up a potential response in the Response Form which was not the true position, the respondent responded that it was "a refinement of a statement".

[62] Those were not coherent explanations of an innocent chronological compression or drafting mistake. They amounted to an acknowledgement that a factual response was adopted because the respondent considered it advantageous, although that was not a true account of events.

[63] The respondent then sought to attribute the inaccurate Response Form to legal advice, absence of representation, ignorance of procedure, stress, the effects of an assault, medication, poor grammar and impaired mental clarity. The respondent had been assaulted prior to the Response Form being lodged and this was a significant personal circumstance. That fact was not challenged by the claimant and is referenced in the text messages between the parties.

[64] Stress, injury or absence of legal representation might explain poor drafting, omission, imprecision or confusion. They do not adequately explain the invention of the pivotal factual proposition that the claimant had abandoned almost the entirety of his home contents, had been asked to collect the disputed contents and had failed to do so. Nor could legal advice convert a possible legal characterisation of the disputed contents as abandoned into proof of factual events which had not occurred.

[65] The respondent understood that a Response Form required a truthful account. The respondent's varying reliance upon advice, ignorance, stress, medication, grammar and the perceived strength of the response was shifting and unpersuasive.

[66] The respondent's position concerning the purchase of the disputed contents moved materially. The Response Form denied that any contract had been concluded for the purchase of the disputed contents. At the evidential hearing, the respondent stated, "I did

agree that I would purchase some items." The respondent identified bookcases, a couch and a treasure chest as contents which he had agreed to purchase. When asked when that agreement had been made, however, the respondent retreated from having made a concluded purchase and described the position as merely having intimated willingness to buy. The respondent said that it had not been a definitive, "Yes, I'm going to give you that money for this."

[67] The respondent's position moved between, no agreement to purchase any contents, an agreement to purchase particular items, a stated willingness to purchase particular items, an agreement in principle to continue discussions, and an open-ended selection process after entry. That oscillation was not reliable evidence of any coherent alternative contract.

[68] The respondent maintained ultimately that contents would be selected after entry and that he would pay only for those ultimately retained. No coherent mechanism for that arrangement was identified. There were no agreed individual prices, no agreed method of valuation, no date by which selection was to be completed, no agreed procedure for identifying rejected contents, no agreed accounting arrangement, no agreement about who would sell the remaining contents, and no provision for what would happen if contents could not be sold.

[69] The respondent's reference to not knowing the final "bill" was difficult to reconcile with the absence of any individual prices or method by which such a bill could be calculated. The absence of those essential features made the alleged open selection arrangement inherently improbable and supported the claimant's evidence that the parties had agreed a single price for the disputed contents as a lot.

[70] The respondent's evidence about his employment bonus was evasive. The respondent initially sought to distinguish a "February bonus" from the later date upon

which the bonus would actually appear in his pay. The respondent even suggested at one stage that the February bonus had not been mentioned. When then confronted with his own text, "my bonus isnt paid till February", the respondent then accepted that the February bonus had plainly been mentioned.

[71] The respondent then described the reference to the bonus as "a hook, a negotiating tactic as it were" and said that he had been attempting to keep the claimant "sweet". That explanation did not support an innocent misunderstanding. It suggested that the respondent had deliberately used language calculated to preserve the claimant's belief that payment would be made. An undisclosed negotiating purpose could not alter the objective meaning of the respondent's outward words and conduct. The reference to the bonus materially supported the claimant's evidence that the bonus was discussed as the source and timing of payment of the £5,000.

[72] When the claimant directly requested payment on 2 March 2026, the respondent did not say that no contract had been made or that £5,000 was not due. The claimant's message was, "Morning Peter I am looking to see if your going to make that bank transfer of 5,000 regarding the house contents I left." The respondent replied, "Not at the minute no, i dont have that money available" and then explained the expenditure and personal circumstances which meant that funds were unavailable.

[73] The respondent added that some of the disputed contents remained and could be collected but did not initially deny the identified debt. At the evidential hearing, the respondent accepted that, in an ordinary situation, a person who denied that any £5,000 bargain existed might be expected to say so. The respondent explained that the failure was caused by his condition following the assault and a desire to remain civil.

[74] As already stated, it is accepted that the respondent had recently been assaulted and was under strain. That does not satisfactorily explain the structure of the text response. The respondent answered a demand for an identified debt by explaining an inability to pay "at the minute", rather than by denying the debt. That response was objectively more consistent with inability to pay than absence of liability.

[75] The respondent's conduct was inconsistent with the final assertion that the disputed contents remained the claimant's property. The respondent sold substantial pieces of the disputed contents without express authority, did not tell the claimant about those sales for several months, and did not preserve or immediately account for the proceeds. The respondent accepted that no explicit authority to sell the disputed contents had been given.

[76] When asked why contents said to belong to the claimant had not simply been returned, rather than advertised on Facebook and Gumtree as he had done, the respondent did not answer the question. Instead, he began discussing his mother's opinion of the claimant.

[77] The court required the respondent to return to the question, but no satisfactory explanation was provided. The respondent responded by comparing the situation to somebody leaving a few DVDs in a former flat which another person then sold on that person's behalf. That analogy was wholly inapt. The disputed contents in this case comprised a substantial quantity of furniture and other contents from a large house.

[78] The more probable inference was that the respondent sold and donated some of the disputed contents because he understood that these had been purchased by him and could be dealt with by him as owner.

[79] The messages concerning the sale proceeds were inconsistent with the suggestion that the respondent had simply sold the disputed contents as an informal agent. The

respondent initially offered £600 immediately, describing the money as rightfully belonging to the claimant.

[80] The respondent then corrected that account by messaging, "Sorry, my last message wasnt complete, we sold for a total of 1300, i meant to say. 600 now 700 next month. Thats rightfully yours ofc."

[81] The respondent could not pay the whole £1,300 immediately and proposed £600 followed by £700 the following month. The offer was subsequently made conditional upon full and final settlement and withdrawn when the claimant refused that condition.

[82] If the respondent had merely sold the claimant's property and held the proceeds for the claimant, the full proceeds would ordinarily have been available for immediate accounting. The respondent did not demonstrate that the proceeds remained separately held or immediately available.

[83] The proposed payment in two instalments was inconsistent with the suggestion that he was simply holding the claimant's sale proceeds intact and was more consistent with financial difficulty.

[84] The settlement offer itself is not treated as conclusive proof of liability. The factual statements accompanying it, including that disputed goods had been sold and that the money was "rightfully" the claimant's, form part of the wider evidential picture.

[85] The respondent accepted that no request was made during the five months following entry for the claimant to collect the disputed contents. The claimant had attended the house in connection with collecting the BT equipment and later delivered historical documents relating to the house. On neither occasion did the respondent say that the disputed contents had been abandoned, demand their removal or disclose that some of the disputed contents had been sold and donated by him.

[86] The respondent attempted to explain this by reference to the parties' friendly relationship and a possible future lunch or social visit. That did not adequately explain why a person who had initially claimed in the Response Form to have received a large quantity of unwanted and abandoned contents would make no written complaint, make no demand for removal, fail to contact the conveyancing solicitors, sell some of the disputed contents, and remain silent during subsequent personal visits.

[87] The absence of a removal request strongly supported the claimant's account that the disputed contents had been purchased, and it is reasonable to infer will have been a significant factor in the respondent having to radically alter his version of events from that in the Response Form to that he gave in evidence.

[88] At one stage in his evidence and in the Response Form the respondent asserted that the claimant was told during a telephone call on 15 August 2025 that the respondent wanted the house empty. The call log established that a call occurred. It does not establish that anything relevant was said.

[89] This alleged request was contradicted by the September messages discussing payment, the absence of any later contemporary written protest, absence of any complaint at entry, failure to contact solicitors after discovering the contents, absence of a collection demand for 5 months, and the respondent's dealings with the disputed contents.

[90] If the respondent had unequivocally instructed the claimant to provide an empty house, it is inherently improbable that he would take entry with the substantial contents still present, remain silent, and then sell them without promptly raising the issue. The respondent's evidence that the claimant was instructed on 15 August 2025 to leave the house empty was accordingly rejected.

[91] The respondent relied upon the telephone call at approximately 4.23 pm on 24 September 2025, during which the claimant allegedly apologised for leaving "some of the crap". On the respondent's own evidence, that reference concerned small bric-a-brac such as figurines and dolls which might be disposed of at a car-boot sale. The respondent accepted that the other disputed contents were visible to him and were not specifically challenged during that call.

[92] The attempt by the respondent at one stage of his evidence to rely on that conversation as supporting the broad abandonment response to the claim, was inconsistent with his own explanation that it concerned only minor items and his having moved by the time he gave evidence from adopting such an abandonment factual position.

[93] The respondent's own explanation concerning keeping the claimant "sweet" materially damaged the contention that the disagreement arose from an innocent difference in perception. The respondent said that references to the possible purchase and bonus were intended to prevent the claimant selling the disputed contents elsewhere. That evidence showed that the respondent appreciated that the claimant understood payment to be contemplated and deliberately used language intended to maintain that expectation.

[94] The respondent cannot rely upon a private purpose which was not communicated to the claimant to alter the ordinary meaning of the respondent's words and actions. Taken together, these matters were not ordinary discrepancies arising from fading memory, informality or self-representation. The respondent knowingly adopted in the Response Form a factual account which he later accepted was inaccurate. That is not regarded as an innocent drafting error or legal mischaracterisation. It materially undermines the reliability of his evidence on the disputed contract. The respondent's evidence, where it conflicts with

the claimant's evidence in essentials or with the objective documentary and circumstantial evidence, was accordingly rejected and set aside.

Nina Lockett's evidence

[95] Nina Lockett, the respondent's spouse, gave evidence that discussions about purchasing furniture took place, that £5,000 "for everything" was mentioned and that payment following the respondent's bonus was contemplated.

[96] She maintained that no final bargain was concluded and that uncertainty remained over which goods would be purchased, gifted or left. However, she was not present during the critical private discussions between the claimant and respondent, as she was in another room and did not hear or see the final acceptance or later reaffirmation. Mrs Lockett sought to give an honest account, although her evidence contained some inconsistencies concerning gifts, later visits by the claimant and requests for collection.

[97] Accordingly, her evidence was neutral on whether there was a final acceptance by Mr Lockett, but it did corroborate the surrounding contractual context: discussions about purchase occurred, £5,000 "for everything" was mentioned, payment following the respondent's bonus was contemplated, delivery of the disputed contents, and that some of the disputed contents were later sold by the respondent.

Applicable law

[98] Section 2 of the Sale of Goods Act 1979 provides, so far as relevant:

> "(1) A contract of sale of goods is a contract by which the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price. … (3) A contract of sale may be absolute or conditional. (4) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale. (5) Where under a contract of sale the transfer of the

> property in the goods is to take place at a future time or subject to some condition later to be fulfilled the contract is called an agreement to sell. (6) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred."

[99] The July agreement was an agreement to sell because the parties intended property to pass upon delivery at entry. When the claimant left the disputed goods in the house at entry on 24 September 2025, the agreed event occurred, the agreement to sell became a sale and property passed.

[100] Section 4 of the 1979 Act provides: "(1) Subject to this and any other Act, a contract of sale may be made … by word of mouth, … or may be implied from the conduct of the parties."

[101] The contract here was expressly made by word of mouth, although confirmed by a shaking of hands. It is therefore unnecessary to imply a contract from conduct, although the parties' later conduct is relevant evidence confirming objectively what was expressly agreed.

[102] Gloag and Henderson, *The Law of Scotland*, 15th ed, paragraph 5.05 states that:

> "A contract involves, and is dependent on, agreement" and that, in disputed cases, apparent rather than undisclosed intention governs: "The question whether the parties have agreed is to be decided not by proof of what each party really intended, but by considering what conclusion a reasonable person would draw from their words or acts."

[103] A party using words of ordinary meaning cannot rely upon a private mental reservation, such as that words were only used to keep another party "sweet". That objective rule is illustrated by *Duran* v *Duran* (1904) 7 F 87 and *Muirhead and Turnbull* v *Dickson* (1905) 7 F 686, where the Lord President stated that if parties use words capable of ordinary interpretation, they must expect those who hear them to take the words in their ordinary significance. The respondent's assertion that the bonus reference was a private

"hook" or negotiating tactic cannot alter the objective meaning of the assurances, payment language and conduct which has been found proved.

[104] Paragraph 5.06 of Gloag and Henderson states that, "Consensus in idem occurs when agreement has been reached upon all the essentials of the contract", while the essentials depend upon the particular contract. In *Dempster* v *Motherwell Bridge & Engineering Co* 1964 SC 308 at 332, Lord Guthrie identified the question as whether parties remained at negotiation or had achieved a concluded bargain, price ordinarily being essential. Here the parties, the identified disputed contents, the single price and legal intention were settled. Individual prices or a written schedule identifying each individual item were unnecessary because the contents were sold as a lot.

[105] Additionally, *Avintair Ltd* v *Ryder Airline Services Ltd* 1994 SC 270 at 273 A-C confirms that a concluded contract settles everything necessary but does not fail merely because another matter affecting the relationship has been deferred where the parties have agreed all that is necessary for a binding contract. Peripheral discussion about ornaments, vases, a mattress and other minor contents being disposed of, did not undo the concluded bargain for the disputed contents.

[106] The agreed identification of the goods as the entire contents situated in and around the house, subject only to the retained and gifted contents, supplied the identity of the disputed goods. Their subsequent delivery and acceptance objectively confirmed that identification and the parties' intention that property pass at entry.

[107] Section 61(1) of the 1979 Act provides, so far as relevant:

> "'contract of sale' includes an agreement to sell as well as a sale"; "'delivery' means voluntary transfer of possession from one person to another"; "'goods' includes … in Scotland all corporeal moveables except money"; "'property' means the general property in goods, and not merely a special property"; "'seller' means a person who

> sells or agrees to sell goods"; and "'specific goods' means goods identified and agreed on at the time a contract of sale is made".

[108] Section 61(5) provides: "Goods are in a deliverable state within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them."

[109] Section 16 of the 1979 Act provides: "… where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained."

[110] Section 16 does not prevent property passing, because the disputed goods were identified and agreed upon, and therefore specific and ascertained, at the time of the July contract.

[111] Section 17 of the 1979 Act provides:

> "(1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. (2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case."

[112] Section 18 further provides:

> "Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.
>
> Rule 1.—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery, or both, be postponed. …"

[113] The disputed goods were specific and ascertained in July 2025. The parties nevertheless intended property to pass when the claimant left the goods in the house at entry. That contrary intention displaced the default rule in section 18 rule 1. By 24 September 2025 all disputed goods had been delivered and property in them passed

under section 17. There was no reservation of title. Deferral of payment did not reserve ownership to the claimant.

[114] Section 27 of the 1979 Act provides: "It is the duty of the seller to deliver the goods, and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale."

[115] The claimant delivered the disputed goods by leaving them in the house. The respondent accepted them, retained them and dealt with them as owner. The parties' September variation postponed only payment and did not alter delivery or the transfer of property.

[116] Section 49 of the 1979 Act provides, so far as relevant:

> "(1) Where, under a contract of sale, the property in the goods has passed to the buyer and he wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods…"

[117] Property in the disputed goods passed at entry. Payment fell due no later than 28 February 2026. The respondent's wrongful refusal to pay therefore entitles the claimant to maintain this action for the agreed price of £5,000 under section 49(1) of the 1979 Act.

The evidence applied to contract formation and variation

[118] The July sequence moved beyond negotiation. The higher price was rejected; the claimant made a definite reduced offer for the disputed contents as a lot at £5,000; the claimant's evidence is accepted that the respondent said, "That's fine, I can do that, £5,000", and the parties shook hands, that being objectively supported by the evidence as set out in this judgment.

[119] All disputed goods were ascertained in July as a matter of fact.

[120] The September messages from the respondent did not accurately state the existing bargain. They were attempting to replace it. The telephone call resolved the attempted departure. The claimant's evidence is preferred that the respondent reaffirmed the £5,000 obligation and obtained an extension of time for payment until his bonus.

[121] The claimant implemented that variation by leaving the contents and refraining from demanding payment until March 2026. The variation therefore concerned only the time for payment.

[122] Those conclusions are also supported by inherent probability. It is highly improbable that almost all the substantial contents of the house would be left by the claimant for 5 months under an arrangement containing no selection deadline, no individual prices, no valuation mechanism and no accounting procedure.

[123] The respondent's possession, sales, silence and initial response to the demand are consistent with ownership under the concluded sale and inconsistent with abandonment, temporary custody or an open-ended selection process.

The missives

[124] A lodged solicitor's letter referred to an entire-agreement argument based upon the missives, and the Response Form repeated that position. The operative missives were, however, not produced.

[125] The produced letter proves that the argument was extra judicially advanced, but not the wording or proper construction of the missives. The respondent accepted that no missives had been lodged.

[126] The missives for the house were concluded on 24 September 2025. On the proven facts, the oral sale of the disputed goods was a separate collateral contract, separately

negotiated, supported by a separate price and intended to be performed by delivery at entry. No term of the missives was proved which expressly incorporated, extinguished or superseded that separate contract.

[127] Even if an entire-agreement provision was incorporated in the missives, there was no evidence that, properly construed, it extended beyond the heritable sale of the house to the separate agreement for the sale of the disputed goods. Accordingly, it was not proved that any such provision extinguished or superseded the collateral contract.

Decision

[128] The £5,000 price is due and resting owing by the respondent to the claimant.

[129] The claimant seeks interest from the last date for service, 11 May 2026. Therefore, interest is also awarded on the £5,000 at the judicial rate of eight per cent yearly from that date until payment.

[130] The claimant also seeks expenses. The claimant has succeeded in full and is entitled to expenses.

Interlocutor (Order of the Court)

[131] Having resumed consideration of the claim:

(One) ORDERS the respondent to pay to the claimant the sum of FIVE THOUSAND POUNDS (£5,000) STERLING, together with interest thereon at the rate of eight per cent per annum from 11 May 2026 until payment;

(Two) FINDS the respondent liable to the claimant in the expenses of the claim;

(Three) REQUIRES the claimant, within 28 days, to send to the court and to the respondent an account of the expenses claimed;

(Four) Assigns **11 November 2026 at 10.00am** as a date for assessment of that account by the sheriff clerk; and

(Five) ASSIGNS **27 November 2026 at 09.30am** as an Expenses Hearing;