CA Foundation Contract law UNIT – 9
BAILMENT & PLEDGE

Q.1. MAY 2014 Marks 5

Sunil borrowed a sum of ` 3 lakh from Rajendra. Sunil appointed Rajendra as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds. Afterwards, Sunil revoked the agency. Decide under the provisions of the Indian Contract Act, 1872 whether the revocation of the said agency by Sunil is lawful?

Provision: An agency is terminated if the Principal revokes the authority of his agent. The Principal may revoke the authority of his agent at any time before the authority has been exercised so as to bind the Principal. However, as per Sec. 202 of the Indian Contract Act, 1872, the Principal cannot revoke his authority where the Agency is coupled with interest. An agency is said to be coupled with interest when the object of creating agency is to secure some benefit to the agent in addition to his remuneration as agent. Thus, where the agent has himself an interest in the property which forms the subject matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.
Present Case: The revocation of agency by Sunil is not lawful. This is because here Rajendra (Agent) has himself an interest in the property (land) which forms the subject matter of the agency. Thus, this being a case of agency coupled with interest cannot be terminated by revocation of authority.

Q.2. May 2016 Marks 4

Mr. Ahuja of Delhi engaged Mr. Singh as his agent to buy a house in West Extension area. Mr. Singh bought a house for ₹ 20 lakhs in the name of a nominee and then purchased it himself for ₹ 24 lakhs. He then sold the same house to Mr. Ahuja for ₹ 26 lakhs. Mr. Ahuja later comes to know the mischief of Mr. Singh and tries to recover the excess amount paid to Mr. Singh. Is he entitled to recover any amount from Mr. Singh? If so, how much? Explain. (Nov 2005, 4 marks)

OR

Mr. A of Aiwar engaged Mr. S as his agent to buy a house. Mr. S bought a house for ₹ 40 lakhs in the name of a nominee and then purchased it himself for ₹ 44 lakhs. He then sold the same house to Mr. A for ₹ 46 lakhs. Mr. A later comes to know about the mischief of Mr. S and tries to recover the excess amount paid to Mr. S. Is he entitled to recover any amount from Mr. S ? If so, how much? Explain. (May 2016, 4 marks)

Provision:
The relationship of a Principal and his agent Is of mutual trust and confidence. As per Sec. 215 of the Indian Contract Act, 1872, the agent must not deal on his own account. Where an agent without the knowledge of the principal, deals In the business of agency on his own account, the principal may:
1. Repudiate the transaction, if the case shows, either that the agent has dishonestly concealed any material fact from him, or that the dealings of the agent have been disadvantageous to him.

2. Claim from the agent any benefit, which may have resulted to him from the transaction.

Present Case:
Mr. S, an agent of Mr. Alwar was appointed to buy a house for Mr. Alwar. However, he bought a house for ₹ 40 lakhs in the name of a nominee and then purchased it himself for ₹ 44 lakhs. He then sold the same house to Mr. Alwar for ₹ 46 lakhs. Later Mr. Aiwar came to know about the mischief of Mr. S. Hence, based on provision of Sec. 215 (read with Sec. 216), Mr. Aiwar is entitled to recover ₹ 6 lakhs from Mr. S, being the amount of profit earned by Mr. S out of the said transaction.

Q.3. MAY 2018 Marks 4

ABC Ltd. sells its products through some agents and It is not the custom in their business to sell the products on credit. Mr. Pintu, one of the agents sold goods of ABC Ltd. to M/s. Parul Pvt. Ltd. (on credit) which was insolvent at the time of such sale. ABC Ltd. sued Mr. Pintu for compensation towards the loss caused due to sale of products to M/s. Parul Pvt. Ltd. Will ABC Ltd. succeeds in its claim?

Duty and obligation of an Agent
As per Sec. 211 of the Indian Contract Act 1872, an agent is bound to conduct the business of his principal according to the direction given by the principal, or, in the absence of any such directions, according to the custom which prevails In doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise if any loss be sustained, he must make it good to his, principal, and, if any profit accrues, he must account for it.

Present Case:
ABC Ltd. sells its products through some agents and it is not the custom in their business to sell the products on credit.
Mr. Pintu, one of the agents sold goods of ABC Ltd. to Ws. Parul Pvt. Ltd. (on credit) which as insolvent at the time of such sale.
ABC Ltd. suec Mr. Piritu for compensation towards the loss caused due to sale of products to M/s. Parul Pvt. Ltd. Thus. ABC Ltd. will succeed in its claim as Mr. Pintu, the agent acted otherwise by not conducting the business according to the direction given by his principal.

Q.4. MAY 2018 Marks 3

Rahul a transporter was entrusted with the duly of transporting tomatoes from a rural farm to a city by Aswin. Due to heavy rains, Rahul was stranded for more than two days. Rahul sold the tomatoes below the market rate in the nearby market where he was stranded tearing that the tomatoes may perish. Can Aswin recover the loss from Rahul on the ground that Rahul had acted beyond his authority?

Answer:
Agent's authority in an emergency
As per Sec. 1890f the Indian Contract Act, 1872, an agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence, in his own case, under similar circumstances.

Present Case:
Rahul, the transporter, entrusted with the duty of transporting tomatoes, was stranded for more than two days due to heavy rains. Rahul sold the tomatoes below the market rate fearing that the tomatoes may perish. Her3 Rahul acts in emergency and acts as a man of ordinary prudence. Since Rahul acts in emergency Aswin cannot recover the loss from Rahul on the ground that he has acted beyond his authority.

Q.5. NOV 2018 Marks 3

Azar consigned electronic goods for sale to Aziz. Aziz employed Rahim a reputed auctioneer to soil the goods consigned to him through auction. Aziz authorized Rahim to receive the proceeds and transfer those proceeds once in 45 days. Rahim sold goods on auction for ₹ 2,00,000 but before transferring the proceeds of the auction, became insolvent. Assess the liability of Aziz according to the provisions of the Indian Contract Act, 1872.

Answer:
Provision:
According to Section 195 of the Contract Act. 1872. in selecting an agent (substituted) for his principal, an agent is bound to exercise the same amount of discretion as a man of ordinary prudence would exercise in his own case; and, if he does this, he is not responsible to the principal for the acts or negligence of the agent so selected.

Thus, while selecting a substituted agent the agent is bound to exercise same amount of diligence as a man of ordinary prudence and if he does so he will not be responsible for acts or negligence of the substituted agent. Hence, according to the provisions of the Indian Contract Act, 1872 where consignee has discharged his duties as a man of ordinary prudence and diligence, he shall not be liable for any sum to consignor.

Present Case:
In this case, Azar consigns goods to Aziz In due course employees an auctioneer in goods to sell goods of Azar and also allows him to receive the proceeds of sale. The auctioneer becomes insolvent afterwards without handing over the proceeds. So, Aziz will not be responsible to Azar as he has discharged his duties as a man of ordinary prudence and diligence.

Q.6. NOV 2019 Marks 4

Bhupendra borrowed a sum of ₹ 3 lacs from Atul. Bhupendra appointed Atul as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds. Afterward, Bhupendra revoked the agency. Decide under the provisions of the Indian Contract Act, 1872 whether the revocation of the said agency by Bhupendra is lawful.

Answer:
As per Section 202 of the Indian Contract Act, 1872, where the agent has himself an interest in the property which forms the subject matter of them agency, the agency cannot in the absence of an express contract, be formulated to the prejudice of such interest.

Present Case:
Bhupendra borrowed a sum of ₹ 3 lacs from Atul. Bhupendra appointed Atul as his agent to soil his land and authorized him to appropriate the amount of loan out of sale proceeds. Later.

Bhupendra revoked the agency. So as per Section 202 revocation of the said agency by Bhupendra is unlawful.

Q.7. NOV 2020 Marks 3

X has made an agency agreement with Y to authorize him to purchase goods on the behalf of X for the year 2020 only. The agency agreement was signed by both and it contains all the terms and conditions for the agent. It has a condition that Y is allowed to purchase goods maximum up to the value of ₹ 1o lakhs only. In the month of April 2020. Y has purchased a single item of ₹ 12 lakhs from Z as an agent of X. The market value of the item purchased was 14 lakhs but a discount of ₹ 2 lakhs was given by Z. The agent Y has purchased this item due to heavy discount offered and the financially benefit to X.
After delivery of the item Z has demanded the payment from X as Y Is the agent of X. But X denied to make the payment stating that Y has exceeded his authority as an agent therefore he is not liable for this purchase. Z has filed a suit against X for payment. Decide whether Z will succeed in his suit against X for recovery of payment as per provisions of The Indian Contract Act, 1872.

Answer:

An agent does all acts on behalf of the principal but incurs no personal liability. The liability remains that of the principal unless there is a contract to the contrary. An agent also cannot personally enforce contracts entered into by him on behalf of the principal. In the light of section 226 of the Indian Contract Act, 1872, Principal is considered to be liable for the acts of agents which are within the scope of his authority. Further section 228 of the Indian Contract Act, 1872 states that where an agent does more than he is authorised to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognise the transaction.

In the given case, the agency agreement was signed between X and Y, authorizing Y to purchase goods maximum upto the value of ₹ 10 lakh. But Y purchased a single item of ₹ 12 lakh from Z as an agent of X at a discounted rate to financially benefit to X. On demand of payment by Z, X denied saying that Y has exceeded his authority therefore he is not liable for such purchase. Z filed a suit against X for payment.

As said above, liability remains that of the principal unless there is a contract to the contrary. The agency agreement clearly specifies the scope of authority of Y for the purchase of goods, however he exceeded his authority as an agent. Therefore, in the light of section 228 as stated above, since the transaction is not separable, X is not bound to recognize the transaction entered between Z and Y, and therefore may repudiate the whole transaction. Hence, Z will not succeed in his suit against X for recovery of payment.

Q.8. JAN 2021 Marks 4

Explain whether the agency shall be terminated in the following cases under the provisions of the Indian Contract Act, 1872:
(i) A gives authority to B to sell As land and to pay himself, Out of the proceeds, the debts due to him from A. Afterwards. A becomes insane.
(ii) A appoints B as A's agent to sell A's land. B, under the authority of A, appoints C as agent of B. Afterwards. A revokes the authority of B but not of C. What is the status of agency of C?

Answer:
(i) According to section 202 of the Indian Contract Act, 1872, where the agent has himself an interest in the property which forms the subject matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.
In other words, when the agent is personally interested in the subject matter of agency, the agency becomes irrevocable.
In the given question, A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A.
As per the facts of the question and provision of law, A cannot revoke this authority, nor it can be terminated by his insanity.
(ii) According to section 191 of the Indian Contract Act, 1872, a "Sub-agent' is a person employed by, and acting under the control of, the original agent in the business of the agency.
Section 210 provides that, the termination of the authority of an agent causes the termination (subject to the rules regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him.
In the given question, B is the agent of A, and C is the agent of B. Hence, C becomes a sub- agent.
Thus, when A revokes the authority of B (agent), it results in termination of authority of sub- agent appointed by B i.e., C (sub-agent).

Q.9. JULY 2021 Marks 4

A rented his house to B on lease for 3 years. The lease agreement is terminable on 3 month notice by either party. C, the son of A, being in need of a separate house to live, served a notice on B, without any authority, to vacate the house within a month and requested his father A to ratify his action. Examine whether it shall be valid for A to ratify the action of C taking into account the provisions of the Indian Contract Act, 1872?

Answer:
As per section 200 of the Indian contract Act, 1872, an act done by one person on behalf of another, without such other person's authority, which, if done with authority, would have the effect of subjecting a third person to damages, or of terminating any right or interest of a third person, cannot, by ratification, be made to have such effect.

In the given instance, A rented his house to B on lease for 3 years. The lease agreement was terminable on three months' notice. C, son of A, gives notice of termination to B, without any authority, to vacate the house within a month. Also requested A to ratify his action.

Here by the act of C, the interest of B is affected, therefore the principle of ratification does not apply. Hence, it's not valid for A to ratify the action of C, thereby causing the notice to be binding on B.

Q.10. MAY 2022 Marks 2+2=4

(i) Ramu has given authority to Prem to buy certain goods at the market rate. Prem buys the goods at a higher rate than the market rate. However, Ramu accepted the purchase in spite of higher rate. Afterwards, Ramu comes to know that the goods purchased belonged to Prem himself. Decide, whether Ramu is bound by ratification done?

(ii) Hari, authorises Bharat, a merchant in Mumbai, to recover dues from Bankey & Co. Bharat instructs Deepak, a solicitor, to take legal proceedings against Bankey & Co., for recovery of the money. Explain the legal position of Deepak, referring provisions of the Indian Contract Act, 1872, related to agency. ***(2 + 2 = 4 Marks)***

(i) According to section 198 of the Indian Contract Act, 1872, no valid ratification can be made by a person whose knowledge of the facts of the case is materially defective.

In the instant case, Ramu has given authority to Prem to buy certain goods at the market rate. Prem buys the goods at a higher rate than the market rate. However, Ramu accepted the purchase inspite of higher rate. Afterwards, Ramu comes to know that the goods belonged to Prem himself. The ratification is not binding on Ramu.

(ii) As per section 194 of the Indian Contract Act, 1872, where an agent, holding an express or implied authority to name another person to act for the principal in the business of the agency, has named another person accordingly, such person shall be an agent of the principal for such part of the business of the agency as is entrusted to him.

In the instant case, Hari, authorizes Bharat, a merchant in Mumbai, to recover dues from Bankey & Co. Bharat instructs Deepak, a solicitor, to take legal proceedings against Bankey & Co. for recovery of the money.

Here, Deepak, a solicitor, is a substituted agent to act for the principal in the business of the agency, to take legal proceedings for recovering of money.

Q.11. NOV 2022 Marks 4

Mr. X owes Mr. Y ₹50,000. He (Mr. X) afterwards appoints Mr. Y as his agent to sell his Flat at Bangalore and after paying himself (i.e., Mr. Y) what is due to him, hand over the balance to Mr. X. Examine, as per the provisions of the Indian Contract Act, 1872, can Mr. X revoke his authority delegated to Mr. Y? ***(4 Marks)***

According to Section 202 of the Indian Contract Act, 1872 an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency, and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.

In the given question, Mr. X owed to Mr. Y ₹ 50,000.

When Mr. X appointed Mr. Y as his agent to sell his Flat and authorized him to appropriate the amount due to Mr. X out of the sale proceeds, interest was created in favor of Mr. Y and the said agency is not revocable. Thus, Mr. X cannot revoke his authority delegated to Mr. Y.

Note: The answer to the above question can also be given as per Section 203, section 204 and section 206 as follows:

Revocation of authority under the Indian Contract Act, 1872: An agency may be terminated by the principal revoking the authority of the agent. Principal may revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal [Section 203]. However, the principal cannot revoke the authority given to his agent after the authority has been partly exercised so far as regards such acts and obligations as arise for acts already done in the agency. [Section 204]

When the principal, having justification to do so, revokes the authority, he must give reasonable notice of such revocation to the agent, otherwise, he would be liable to pay compensation for any damage caused to the agent (Section 206).

Hence, Mr. X can revoke his authority delegated to Mr. Y if Mr. Y has not exercised any authority towards the act authorized by Mr. X and no obligation arises out of it.

Q.12. MAY 2023 Marks 4

Akashia Steels is a famous manufacturer of steel products. Proprietor of Akashia Steels, Mr. S.K Jain appointed Mr. Satish as his agent. Mr. Satish is entrusted with the work of recovering money from various traders to whom firm sells its products. Satish has earned commission of ₹ 1,15,000 for his work. He recovers money from clients on behalf of Akashia Steels. During a particular month he collects ₹ 4,00,000 but deposited in the firm's account only ₹ 2,85,000 after deducting his commission.

Examine with reference to relevant provisions of the Indian Contract Act, 1872, whether act of Mr. Satish is valid? ***(4 Marks)***

According to section 202 of the Indian Contract Act, 1872 an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency, and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.

In the instant case, the rule of agency is coupled with interest.

Here, Mr. S.K. Jain appointed Mr. Satish as his agent for recovering money from various traders to whom firm sells its products.

From the collection of ₹ 4,00,000, he deposited in the firm's account remaining amount (₹ 2,85,000) after deductions of his share of commission that he has earned for work.

Here, the agency created is coupled with interest. When the agent is personally interested in the subject matter of agency, such an agency becomes irrevocable. and the act of Mr. Satish will be considered as valid.

Alternate answer

Right to retain out of sums received on principal's account (Section 217): This section empowers the agent to retain, out of any sums received on account of the principal in the business of the agency for the following payments:

(a) all moneys due to himself in respect of advances made

(b) in respect of expenses properly incurred by him in conducting such business

(c) such remuneration as may be payable to him for acting as agent.

The right can be exercised on any sums received on account of the principal in the business of agency.

Here, Mr. S.K. Jain appointed Mr. Satish as his agent for recovering money from various traders to whom firm sells its products.

As per section 217, Mr. Satish has a statutory right to deduct his remuneration (i.e., commission) of ₹ 1,15,000 from the total amount of ₹ 4,00,000 collected on behalf of his principal and remit the remaining amount of ₹ 2,85,000 to Mr. S.K. Jain. Hence, the act of Mr. Satish will be considered as valid.

Q.13. NOV 2023 Marks 4

Rajesh obtained a loan of ₹ 10 lakh from Mahesh. Following this, Rajesh appointed Mahesh as his agent to facilitate the sale of his land, granting him the authority to deduct the loan amount from the proceeds of the sale. Later on, Rajesh wants to withdraw or cancel this agency arrangement. Assess the lawfulness of Rajesh's decision to revoke the above mentioned agency, taking into account the provisions of the Indian Contract Act, 1872. ***(4 Marks)***

According to section 202 of the Indian Contract Act, 1872, an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency, and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.

In the instant case, the rule of agency coupled with interest applies.

Thus, when Rajesh appointed Mahesh as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds, interest was created in favor of Mahesh and the said agency is not revocable. The revocation of agency by Rajesh is not lawful.

Alternate Answer

Revocation of authority under the Indian Contract Act, 1872: An agency may be terminated by the principal revoking the authority of the agent. Principal may revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal [Section 203]. However, the principal cannot revoke the authority given to his agent after the authority has been partly exercised so far as regards such acts and obligations as arise for acts already done in the agency. [Section 204]

When the principal, having justification to do so, revokes the authority, he must give reasonable notice of such revocation to the agent, otherwise, he would be liable to pay compensation for any damage caused to the agent. [Section 206]

Hence, Rajesh can revoke his authority delegated to Mahesh if he (Mahesh) has not exercised any authority towards mentioned agency and no obligation arises out of it.