

## UNIT-2: Consideration

21/12/21

### \* Definition of consideration [sec 2(d)]

- When AT THE DESIRE OF PROMISOR
- THE PROMISEE OR ANY OTHER PERSON
- has done or abstained from doing or
- does or abstain from doing
- promises to do abstain from doing something
- such an act or abstinence or promise is called Consideration.

- ① Consideration is an act (may be)
- ② Consideration is abstinence
- ③ Consideration must move at the desire of promisor.
- ④ Consideration may move from promisee or any other person.
- ⑤ Consideration may be past, present, or future.

### \* Legal Rules Regarding consideration

- ① Consideration must move at the desire of the promisor:
- the act must be done at the desire of or request of the promisor -

Case law: Durga Prasad v. Baldeo

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② Consideration may move from promisee or any other person:

→ The act may be done by the promisee himself or any other person.

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Case law: [Chinnaya Vs. Rammayya]

Three parties

① Old lady

② Daughter

③ Maternal uncle

Promisor

↓

Daughter

Promisee

Maternal Uncle

Other Person → Old lady  
tety (mamma)

• Decision:- There was sufficient consideration for uncle by old lady to recover money from daughter.

③ Executed and executory consideration:

(i) Executed → consist in performance

(ii) executory → consist in promise

④ Consideration may be past, present or future:

→ For consideration to be treated as past, it must move by previous request.

⑤ Consideration need not be adequate :-

→ i.e. it can be inadequate

- ⑥ Performance of what one is legally bound to perform:
- ⑦ Consideration must be real and not illusory.
- ⑧ Must not be unlawful, immoral, or opposed to public policy:

### \* Explanation to Section 25

- Agreement in which consent of party is freely given
- is not void
- just because consideration is inadequate.

Note:-

To determine whether consent of promisor is freely given, inadequacy of consideration may be taken into account, if party pleads that his consent was not free.

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### \* Suit by a third party to a contract.

- Consideration may come from third party
- Only a person who is party to a contract can sue on it.
- The above rule is "Rule of Privity of contract"

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- Stranger to a contract cannot sue is known as a doctrine of Privity of contract

\* Exception to the above rule :-

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① In case of trust, a beneficiary  
→ Beneficiary can enforce his right

② In case of a family settlement

- If terms of contract in writing
- Members of family who was not a party to contract can enforce the same

PPT 1.11

③ In case of certain marriage contracts/arrangement

- If terms of contract provision may be made for benefit of person
- He/she may file suit even though not party to a contract

PPT 1.11

④ In case of Assignment of Contract

- When benefit assigned under contract
- Assignee can enforce it

PPT 1.11

⑤ Acknowledgement or Estoppel

- When a person represent himself as an agent of third party
- It would result into binding obligation towards third party

## ⑥ Contract entered through an agent

→ Principal can enforce the contract if agent acted in scope of authority and in name of principal.

## ⑦ In case of covenant running with the land

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1.12

→ Person who purchases land with notice that owners of land is bound by certain duties.

→ Covenant may be enforced by successor of seller.

## Imp 22/12/21 Validity of an Agreement without consideration [Section 25]

### ① Natural Love and affection:

#### Conditions Agreement [25(1)] - sections

- (i) Must be made by natural love and affection.
- (ii) Parties - Near relation
- (iii) Writing
- (iv) Registered

### ② Compensation for past voluntary services:

#### Conditions [Sec 25(2)]

- (i) Services - Voluntarily
- (ii) Services - Promissor
- (iii) Promissor - intended to compensate
- (iv) Promissor ~~to~~ pay time barred debt must be in existence

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③ Promise to pay time barred debt P.P.T-1.12  
Conditions [Sec 25(3)] - limitation act

- Promise → writing
- Signed → by person or his authorised agent to pay time barred debt/valid

④ Agency

- As per Section 185 of ICA, 1872
- No consideration is necessary for agency

⑤ Completed Gift

Rule → no consideration  
 no contract

does not apply to completed gift

• Explanation (1) to Section 25

Section 25 does not affect the validity as between donor and donee of any gift actually made.

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⑥ Bailment

Section 148 of the Indian Contract Act, 1872,

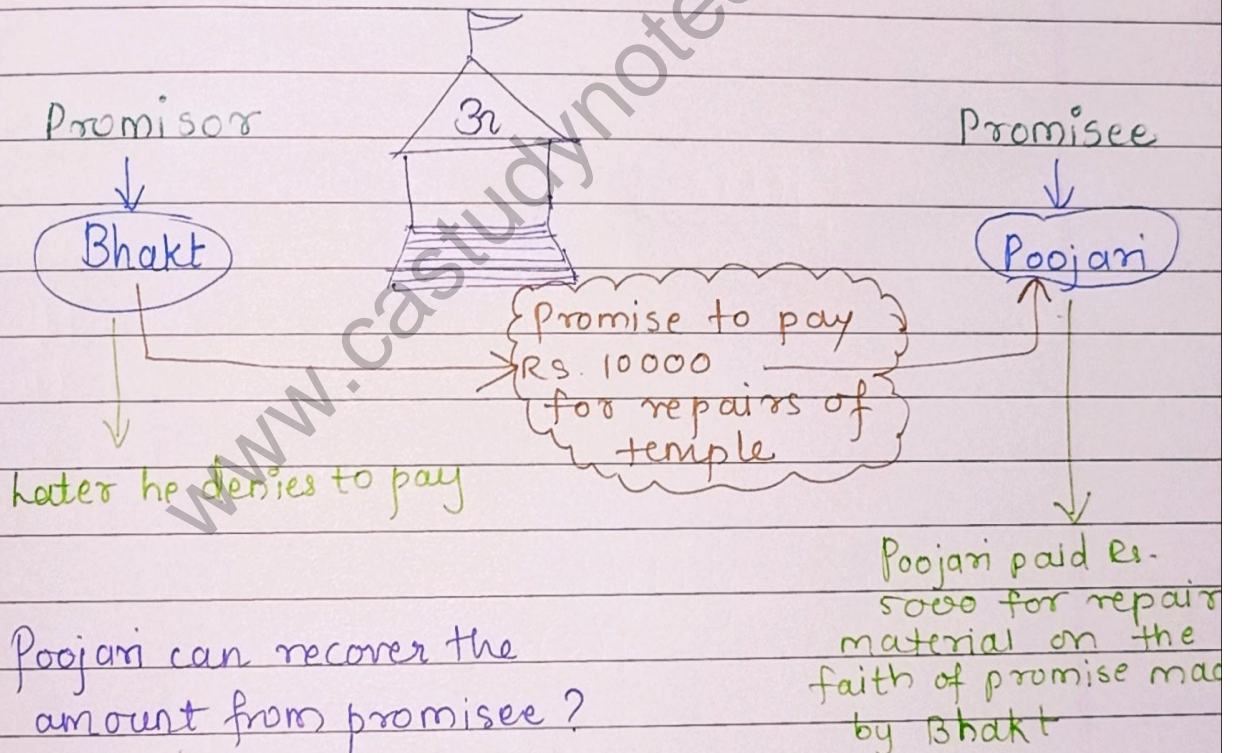
- Bailment as the delivery of goods
- from one person to another for some purpose.
- This delivery is made upon a contract
- that post accomplishment of the purpose,
- goods either return or disposed of,
- according to the direction of the person delivering them.
- No consideration is required to affect a contract of bailment  
 e.g. gave a bike to friend for some time.

## ⑦ Charity ppt - 1.12

- If promisee takes liability
- on promise of person
- to contribute to charity
- contract shall be valid

### Case law : Kedarnath v. Gorie Mohammad

Defendant → Agreed to subscribe ₹ 100 for construction of that crack wall → Secretary of townhall of



∴ Poojari can recover the amount from promisee?

→ Yes.

∴ It is valid Contract.

Memory  
technic

Past me Time pass ke liye love kiya tha jisme Bail mil  
aaj hum usse Agent ke dwara Charity me de dena  
chahte hai.