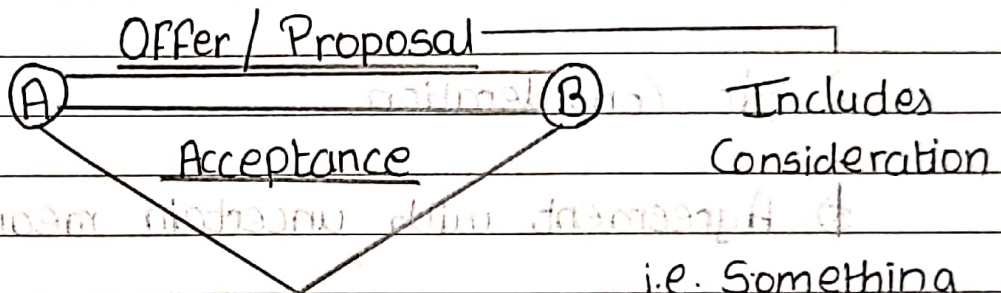


MERCHANTILE LAW

Business

Contract Act      Sales of Goods Act      Partnership Firm



May be oral — Agreement or written

Enforceable by law

has value in eyes of law

(Supported by law)

Contract

Voluntary activity is not treated as consideration

• Offer / Proposal:

An expression of willingness with intention to receive acceptance on it.

• All contracts are agreements but all agreements are not contracts.

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Example :

1) Agreement with incapable person.

e.g. minor, unsound mind, insolvent person, person connected to imprisonment, Alien enemy.

2) Impossible Agreements (Initially impossible)

3) Agreements which are specifically declared as void.

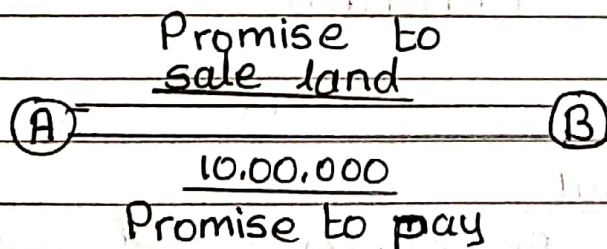
4) No Consideration.

5) Agreement with uncertain meaning

6) Illegal Agreement.

• AGREEMENT :

Promise or set of promises forming consideration for each other.



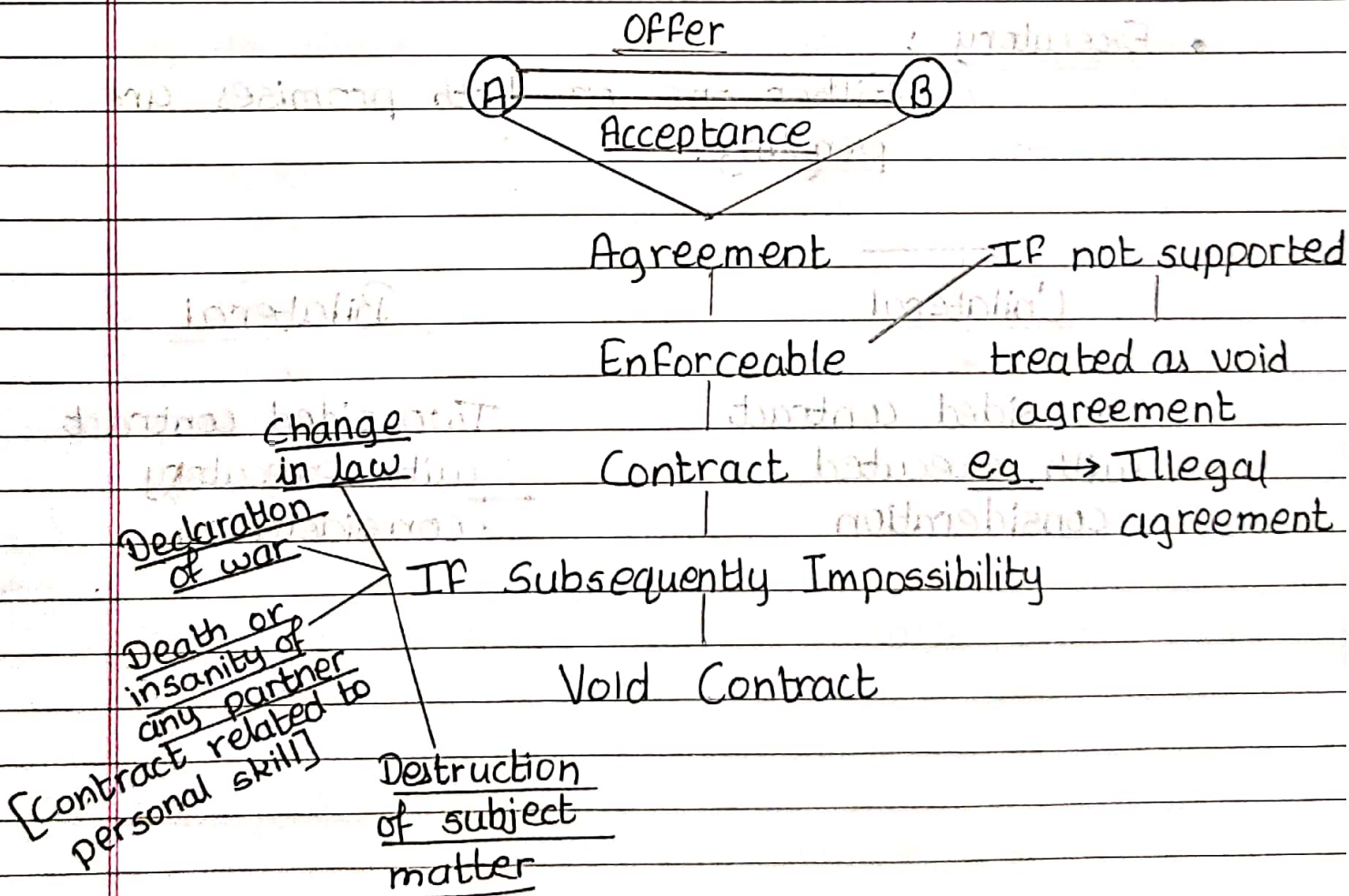
A's promise is consideration B's promise and B's promise is consideration for A's promise.

- Offer once accepted becomes promise.
- Offer must be given with intention to receive acceptance on it. (create legal relationship)

• VALID CONTRACT: Agreement which is enforceable by law.

• VOID CONTRACT: Agreement which is not enforceable by law.

• VOID AGREEMENT:



• RECIPROCAL PROMISE :

Promises flowing from both sides.

- Unilateral : Single
  - Bilateral : Two / Both
- } Executory
- Executed : Activity already performed.
  - Executory : Promises / Performance pending.

• Executed :

All promises are completely performed.

• Executory :

Either one or both promises are pending.

Unilateral



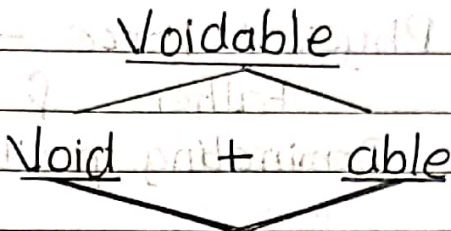
One sided contract with executed consideration

Bilateral



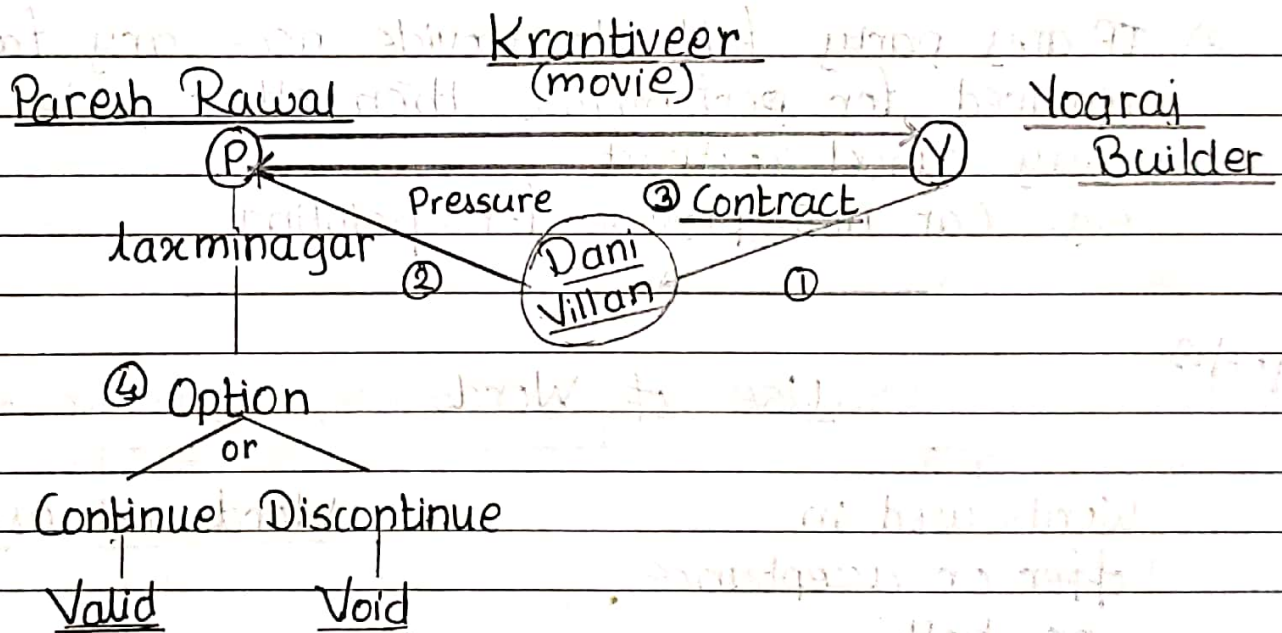
Two sided contract with executory consideration.

• VOIDABLE CONTRACT:



- Contract which can be made void.
- Agreement which is enforceable at the option of one or more parties ~~and~~ not at the option of others. <sup>but</sup>

Example:



Generally contract becomes voidable under following situations:

- 1) No free Consent of Party:  
 without any burden/force.

Following factors / elements affects free consent where crime is involved ←

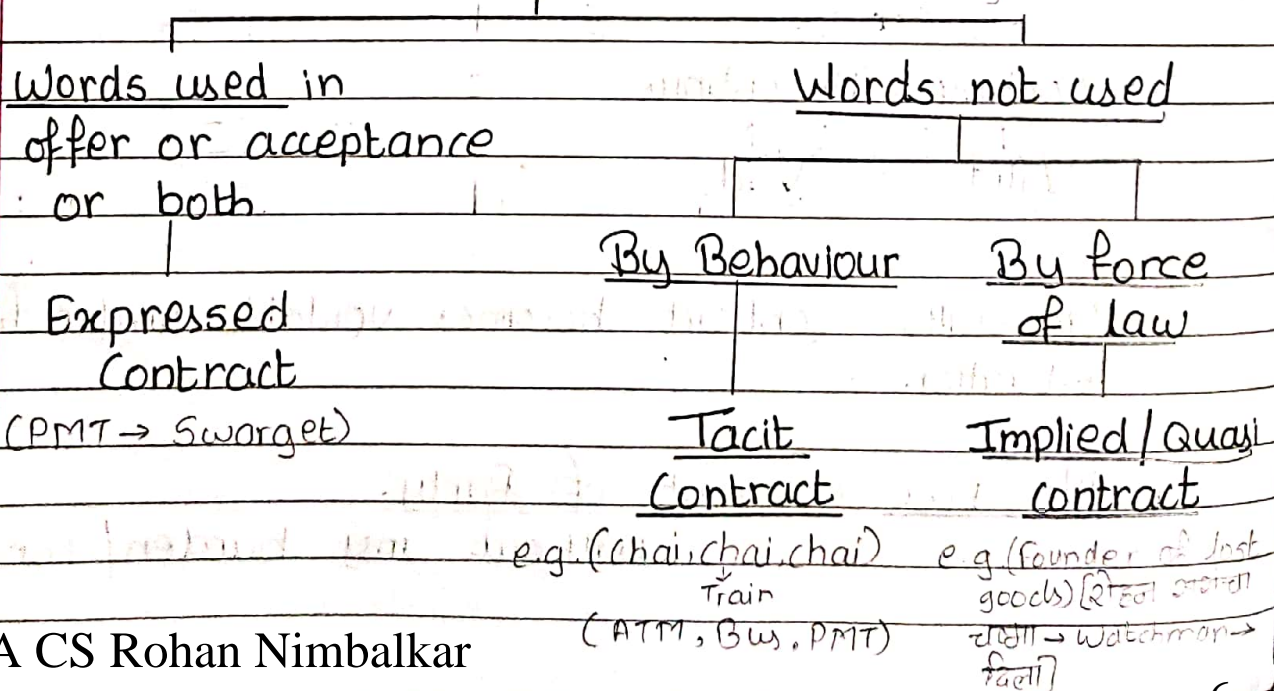
- a) Coereion : Physical Force - (Krantiveer)
- b) Undue Influence : Father & Son Dominating position.
- c) Fraud
- d) Misrepresentation
- e) Mistake

2) IF contract is <sup>not</sup> completed within time then agrieved (affected) party may cancel contract.  
e.g. Car painting doesn't completed in time.

3) IF any party fails to provide necessary facility required for performance then other party may cancel contract.  
e.g. Car not provide for painting.

28/06/19

Use of Words (for making contracts)



- All illegal agreements are void but all void agreements are not illegal.

### VOID AGREEMENTS

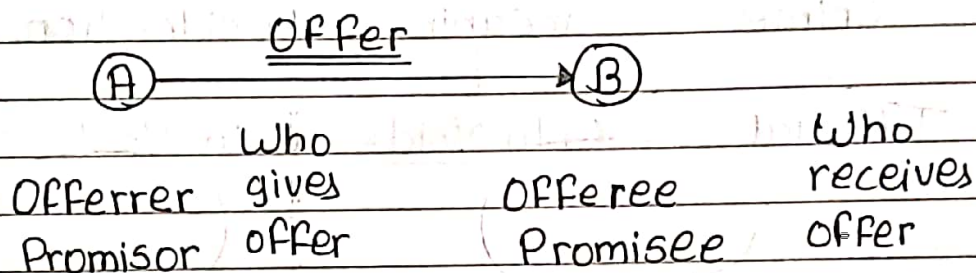
To Commit Crime	Uncertain meaning	Without Consideration	Agreement with minor
<u>Illegal</u>	<u>Only Void</u>	<u>Only Void</u>	<u>Only Void.</u>

Only Void	Illegal + Void
- No punishment to party e.g. Agreement with minor	- Punishment e.g. Agreement to commit murder
- Collateral contracts are void valid.	- Collateral Agreements are also Illegal + Void.
<p>A → Land → B A (Minor) → Void B → 10,00,000 Collateral → C C → Valid</p>	<p>A → Murder → B A → 10,00,000 B → 10,00,000 Collateral → C C → Illegal + Void</p>

- Collateral: Contracts / Agreements are made only when there is same objective of both the parties. / Two contracts are made with same objective.

- OFFER : (Proposal) (Section 2a)  
Expression of final willingness with intention to receive acceptance on it.

- Offer may be positive or negative  
(To do something) (Abstain from doing)



- Offer must be capable of creating legal relationship  
(IF there is no consideration there is no legal relationship)

- Offer may be unconditional.

- Condition should not force any party to enter into contract or to accept it.

In other words it should not contain term (condition) non compliance of which may lead to acceptance.

- Offer must be communicated.

(Oral or writing or behaviour)



- Offer must be certain and not vague.

Example: Person ordered 150 litre oil.

31/11/19

- Offer must be distinguished from invitation to offer.

### OFFER

- There is final willingness

- Generally offer is given after invitation to offer

### INVITATION TO OFFER

- There is no final willingness

- First Stage

- Examples:

Menu cards, Catalogue, Brochures, Banners, Goods in showroom / shop.

4/10/19

### TYPES OF OFFER.

#### 1) General offer / Public offer:

Offer given to public and which can be accepted by any person from public.

(IE includes group of person)

e.g. Offer available for all CA students

2) Specific / Special Offer:

Offer given to specific / identified person.

3) Counter Offer:

Counter offer is given in response to previous offer which has effect of cancellation of previous offer. (Offer committed from opposite party).

Example: (Bargaining / Negotiation)

- Conditional / qualified acceptance is also treated as counter offer.

4) Cross Offer:

Both parties exchange same offer in ignorance.

- Offer of other person can not be treated as acceptance, therefore acceptance shall be given by one of the party to complete the agreement or contract.

5) Open / Standing / Continuing Offer:

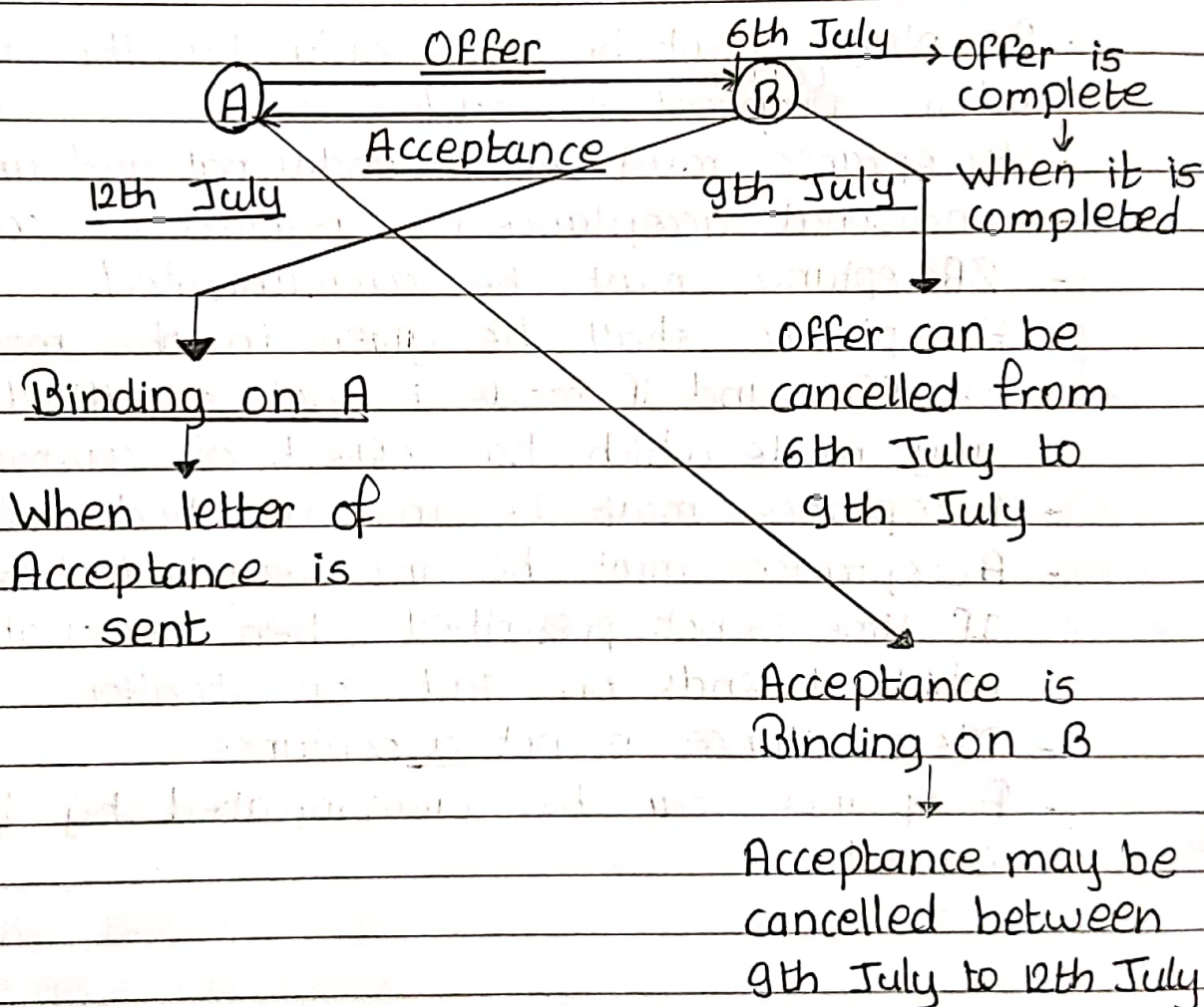
When offer is available for specific period then it is treated as opening / standing / continuing offer.

• ACCEPTANCE : Giving consent (saying yes) to offer

- When the person to whom the proposal is made signifies assent there to, the proposal is said to be accepted and proposal when accepted becomes promise.
- Acceptance must be given only by the person to whom <sup>(offer)</sup> proposal is made
- Acceptance must be unconditional and unqualified
- Conditional acceptance is treated as counter offer.
- Acceptance must be communicated.
- Acceptance shall be given in the mode specified in offer and if mode is not specified then in any mode which has effect of communication.
- Acceptance must be in prescribed mode.
- Acceptance must be in prescribed time. If time is not prescribed then reasonable time which depends on facts or situation.
- Mere silence is not acceptance.
- Acceptance can be communicated by behaviour / conduct.

## • When Offer & Acceptance is Completed:

Acceptance to offer is lighted match to the train of gun powder. Once acceptance to offer is given it becomes contract and obligation are created and person cannot escape from this obligation.



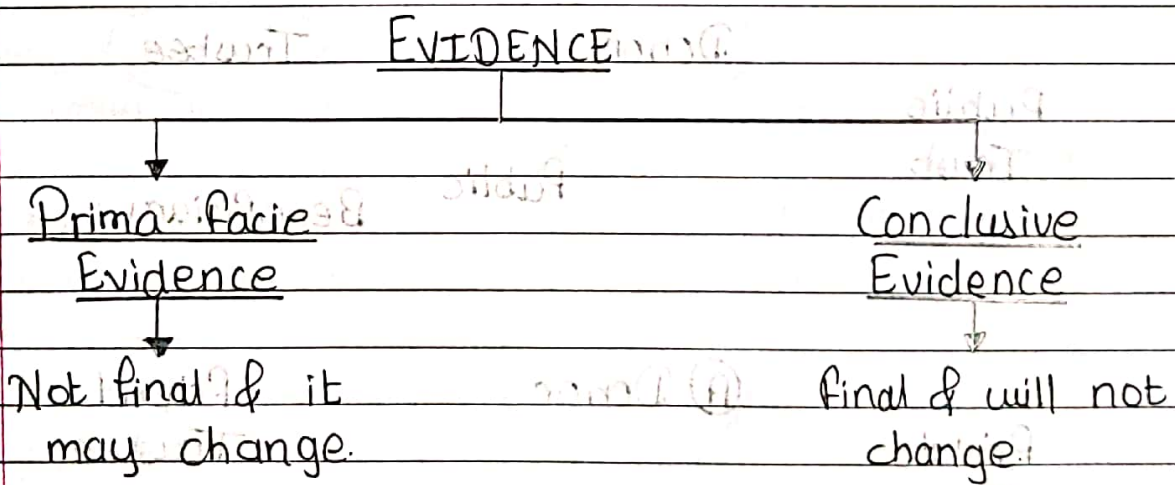
• CONSIDERATION: Quid Pro Quo (Latin word)  
Something in return

which has value in the eyes of law. It may be promise, goods, money, skills etc.

Consideration: Promise or performance that parties exchange with each other.

- Consideration must move at the desire of promiser
- Consideration may move from promisee or any other person. There can be stranger to consideration but there can not be stranger to contract.
- In other words consideration may be paid by third person on behalf of promisee.
- Consideration may or may not be adequate. Promisor may take consideration less than its market price at his desire.

— P.T.O



Consideration:

- Consideration may be past, present or future
- Consideration must be real and not illusory:-  
Impossible consideration not allowed.  
e.g.: Titanic → Captain → Save → Property (consideration)

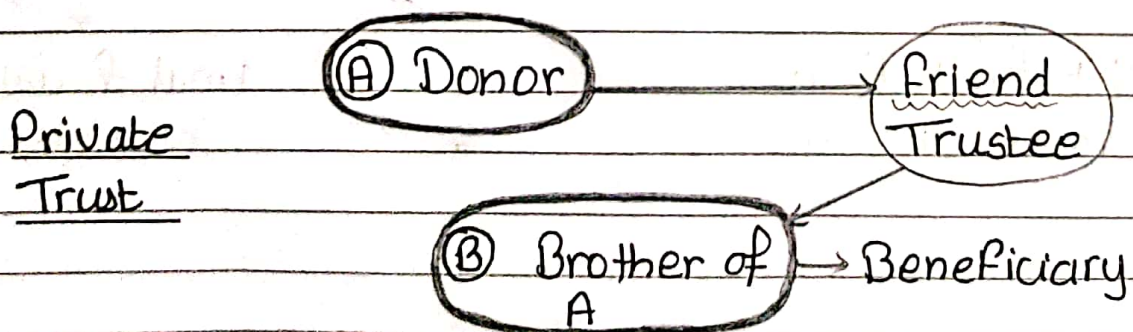
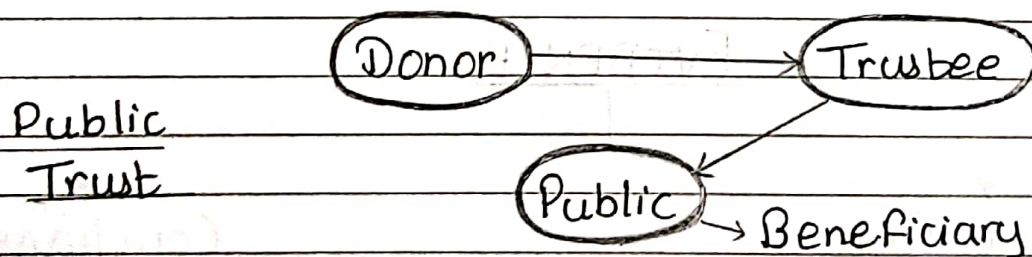
- Consideration shall be such for which promisee is not legally bound to perform.
- Consideration must not be unlawful, immoral or against public policy (Contractual Marriage)

12/7/16

- Suit by third person: -  
Privity of contract :- Contract is in between parties and ~~not~~ third persons are not allowed to file suit (case).

Exceptions:

- ① In case of trust → (Organisational Trust)  
Beneficiary can file suit even if he was not party to contract.



\* Estoppel: stopped from denying.

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2) In case of family settlements:

Any member of family can file suit even though they were not part of contract/settlement, if settlement is in writing.

3) In case of certain marriage contract:

Female member of family can enforce provision for marriage expenses made on partition of HUF.

4) In case of assignment of contract:

transfer of benefit.

- Assignee can file suit.

13/11/19

5) In case of acknowledgement <sup>Acceptance of something</sup> Estoppel:

In case of acknowledgement the person receiving acknowledgement can file suit even if he was not part of contract.

6) Covenant running with land:

(Obligation which continues with land):

IF obligation attached with land is not fulfilled then any person from family of a person who imposed restriction can file suit.

Assignor - who gives benefit

Assignee - who receives benefit

Assignment

- Transfer of benefit only.  
(No transfer of liabilities)

- No liability transferred

- Assignment is voluntary

Succession

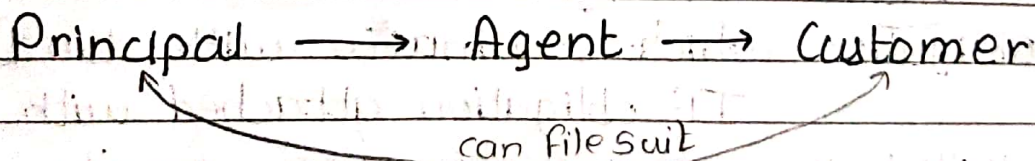
- In case of death of any party, property will be transferred to legal representative is succession.

- Liability also transfers to the extent of Asset received.

- It is by process of law.

Person who is acting on behalf of others  
 → Contract entered through agent :

Third person may file suit on principal & vice-versa.





• VALIDITY OF AGREEMENT WITHOUT CONSIDERATION

General Rule :- No consideration, No Contract

IF there is no consideration then contract / Agreement shall be Void.

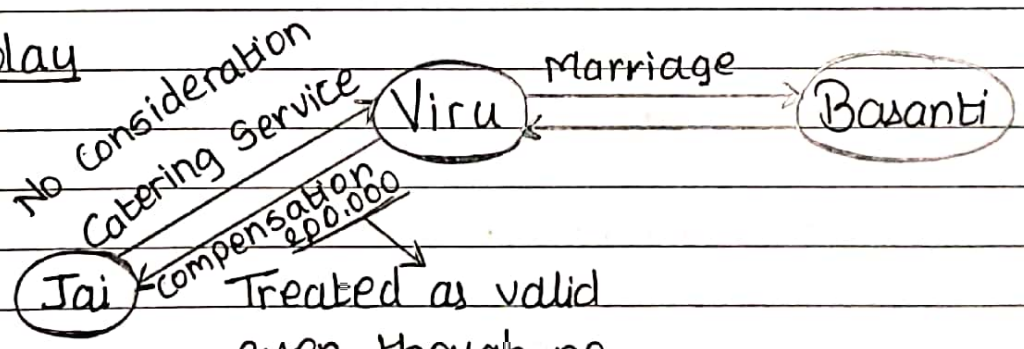
EXCEPTIONS: Where contract is valid even though there is no consideration.

① Natural Love and Affection:

Such contracts are valid IF it is made in writing, and it should be registered.

② Compensation for Past Voluntary Services:

Sholay



Treated as valid even though no consideration from Jai.

## • ESSENTIALS OF CONTRACT

### 1) Capacity to Contract

Person should not be:-

- 1) Minor
- 2) Unsound mind
- 3) Alien enemy
- 4) Insolvent
- 5) Person in imprisonment

### 2) Free Consent

Following elements will disturb free consent:

- 1) Coercion
- 2) Undue influence
- 3) Fraud
- 4) Misrepresentation
- 5) Mistake

### 3) Lawful Consideration and Object

4) Agreement not specifically declared as void.

5) Possibility of performance.

6) Certainty of meaning

## D Capacity of Contract

@ Minor: (Age below 18)

- Contract/ with minor is void ab Initio.
- Agreement (It is void from beginning)

Case Study is: Mohori Bibi Vs. Dharmo Das Ghose.

- Minor is never personally liable.
- Minor can always plead - (Defend) minority.  
He can protect himself from liability.

16/7/19

- No Ratification after attaining majority.
- Minor can be beneficiary (He can take benefit of contract)

Agreement Involves:

- ① Only liability on minor → Void
- ② Only Benefit → Valid
- ③ Liability + Benefit → Void.

- Minor's property is liable for necessities!

Necessaries Includes :

- ① Food
- ② Clothes
- ③ Shelter
- ④ Education and Instructions

- His Property is liable if:-

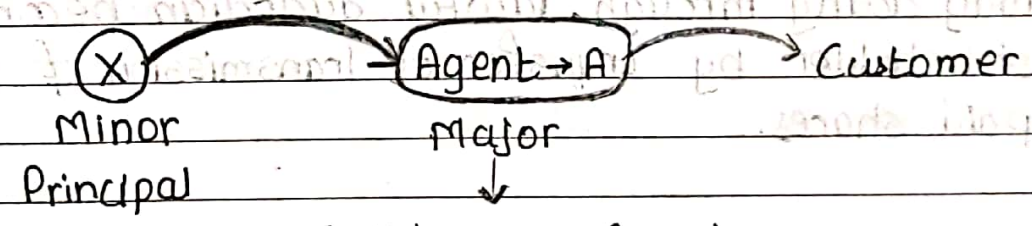
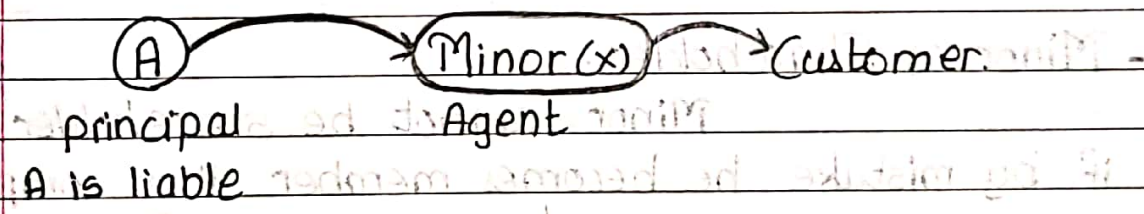
- ① Necessaries were provided when it was not sufficiently available with minor.
- ② It was supplied to minor or his dependent relatives.

- Contracts by Guardian: Guardian can make valid contract on behalf of Minor. But if contract is related to immovable property then permission of Court is required.

11/11/19 - No specific performance against Minor. (Specific performance is given in case of antique/immovable property if damages are not sufficient (Recoverable))

- Minor can not be declared as insolvent: Minor is never personally liable therefore he can not be declared as insolvent.

- Minor can be Agent: But minor can not be principal.   
 (person acting on behalf of others)



In this case Agent is liable as he is acting on behalf of Minor.

- Minor can not bind parents or guardian in any contract. (Guardians are not liable for contracts made by minor).
- Generally Guardians are not liable for contracts made by minor except where minor was acting as an agent for guardians.
- Liability For Tort:  
Wrongful Act without wrong intention.
  - Minor is liable in tort but if tort is related to breach of contract then minor is not liable.
- Joint Contract by Minor and Major:  
Major is completely liable for contract.
- Minor as Shareholder:  
Minor cannot be shareholder and if by mistake he becomes member then company can cancel the contract / Membership. But minor may acting through, lawful guardian - become a shareholder by transfer or transmission of fully paid shares.
  - When both the persons are agreed.
  - In case of death or insanity, shares can be transferred from one person to another.

### ⑥ UNSOUND MIND:

- Only property is liable for necessities supplied.
- Burden of proof is on person who is taking objection.

### ⑦ Alien Enemy:

- Generally all agreements / contracts are void; But it can be executed with permission of Central Government.

### ⑧ PERSON In IMPRISONMENT

- Existing contracts suspended and new contracts can not be entered.

Exception: CG (Central Government) Approval.

### ⑨ INSOLVENT

- Person who is not capable of repayment of liabilities. Either by assets or earning capacity.

### • FREE CONSENT: (Consensus - ad - idem)

Agreed on same things in same sense.

Factors / Element which affects / disturbs Free consent.

(Section 13 & 14)

- 1) COERCION:
- 2) Undue Influence
- 3) Fraud
- 4) Misrepresentation
- 5) Mistake

① COERCION: (In English law known as duress)

Section 15

Committing or threatening to commit any forbidden by Indian Penal Code (IPC) act. (With intention that other party will enter in contract).

- Threat to commit suicide is also coercion.
- Generally it includes physical force.
- It is immaterial that IPC was in existing or not when coercion was applied.
- Contract becomes voidable.
- Coercion may proceed from third party.
- Coercion <sup>must</sup> be done to induce other party to enter in contract.
- Detain or threatening for detaining is also coercion.

2) UNDUE INFLUENCE: Section 16

Improper

- This is also known as mental coercion.
- One party is in dominating position. Such party uses dominating position to obtain unfair advantage e.g. father - son, Doctor - patient, lawyer - client, fiance - fiancée.
- Generally husband and wife relationship is excluded but if there is 'Pardanasheen Woman'

then husband is assumed to be in dominating position.

### 20/11/19 3) FRAUD: (Section 17)

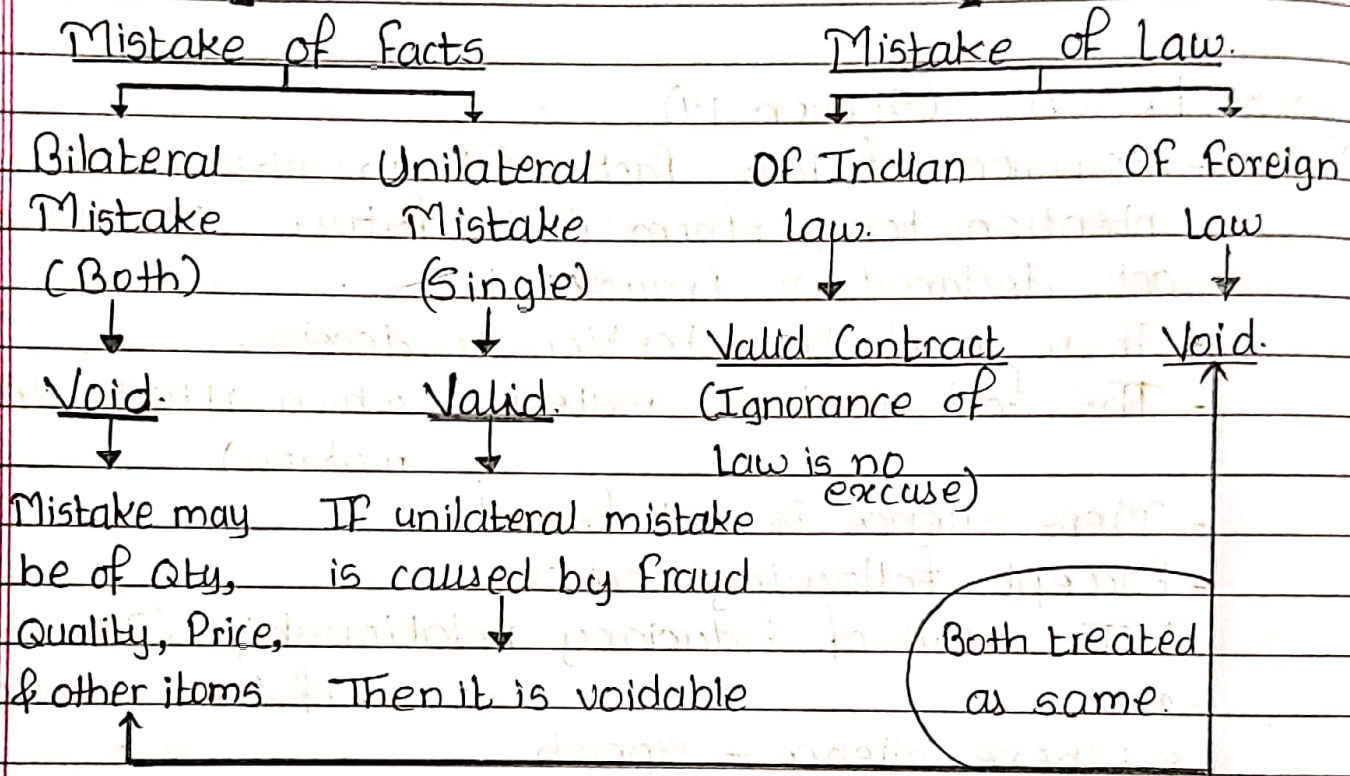
- Expression of false fact OR promise made without intention to perform it in future. OR any other act declared as fraudulent.
- There must be intention to deceive.
- The fact must be material (which affects decision making).
- Mere silence is not fraud.
- Except following cases:
  - 1) In case of fiduciary relationships (Relationship of trust and confidence)
  - 2) Where silence = speech.
  - 3) Person speaks half truth.
- Contract is voidable.
- Punishment is applicable.

### 4) MISREPRESENTATION: (Section 18)

- Expression of false fact without intention to deceive other party.
- Contract is voidable but court may order to continue contract after some modifications.
- Punishment is not applicable.



5) MISTAKE : (Section 20 to 22)



• Mistake is because of wrong believe

- Object or Consideration against public policy:

- i) Agreements of trading with enemy:

- An agreement made with an alien enemy in time of war is illegal on the ground of public policy.

- This is based upon one of the two reasons:

- 1) The further performance of the agreement could involve commercial intercourse with enemy.

- 2) The continued existence of agreement could confer upon the enemy an immediate or future benefit.

- Agreement with lawful and unlawful object (both)  
(may be one promise is legal & other illegal)

IF legal and illegal promises are separable

IF consideration given separately

Legal Promise

Valid

Illegal Promise

Void

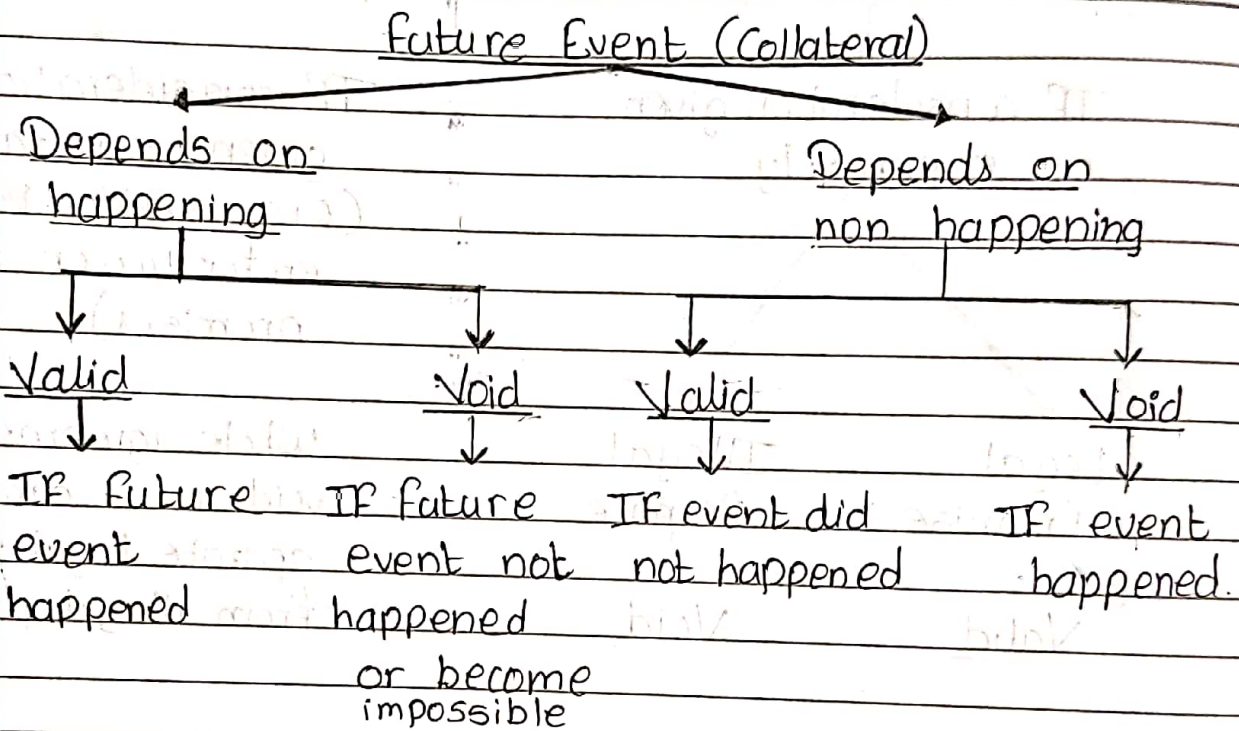
IF legal and illegal promises are not separable

IF consideration not given separately.  
(one consideration is given for two or more promises)

Whole agreement is void as we can not separate legal promise from illegal promise

• CONTINGENT CONTRACT:

- Section - 31
- Also known as Conditional Contract.
- IF performance of contract is dependent on happening & non-happening of future events



- IF time is fixed for happening or non-happening then additionally time limit shall be considered for validity of contract.
- Agreement Contingent on Impossible Event is void.

<u>Wagering Agreement</u>	<u>Contingent Contract</u>
- Always void	- Always Valid.
- Event is not collateral	- Events are collateral
- Loss of one is gain of another.	- Not Applicable.
- No control on future event	- Little control on future event.

29/11/19

### • QUASI CONTRACT:

It is not contract in real sense as there is no offer and acceptance therefore it is Deemed to be Contract:

- Obligations created on parties due to force by/ of law. (No agreement between parties)
- These contracts are given to avoid situations where loss of one is gain to another.

#### Examples :-

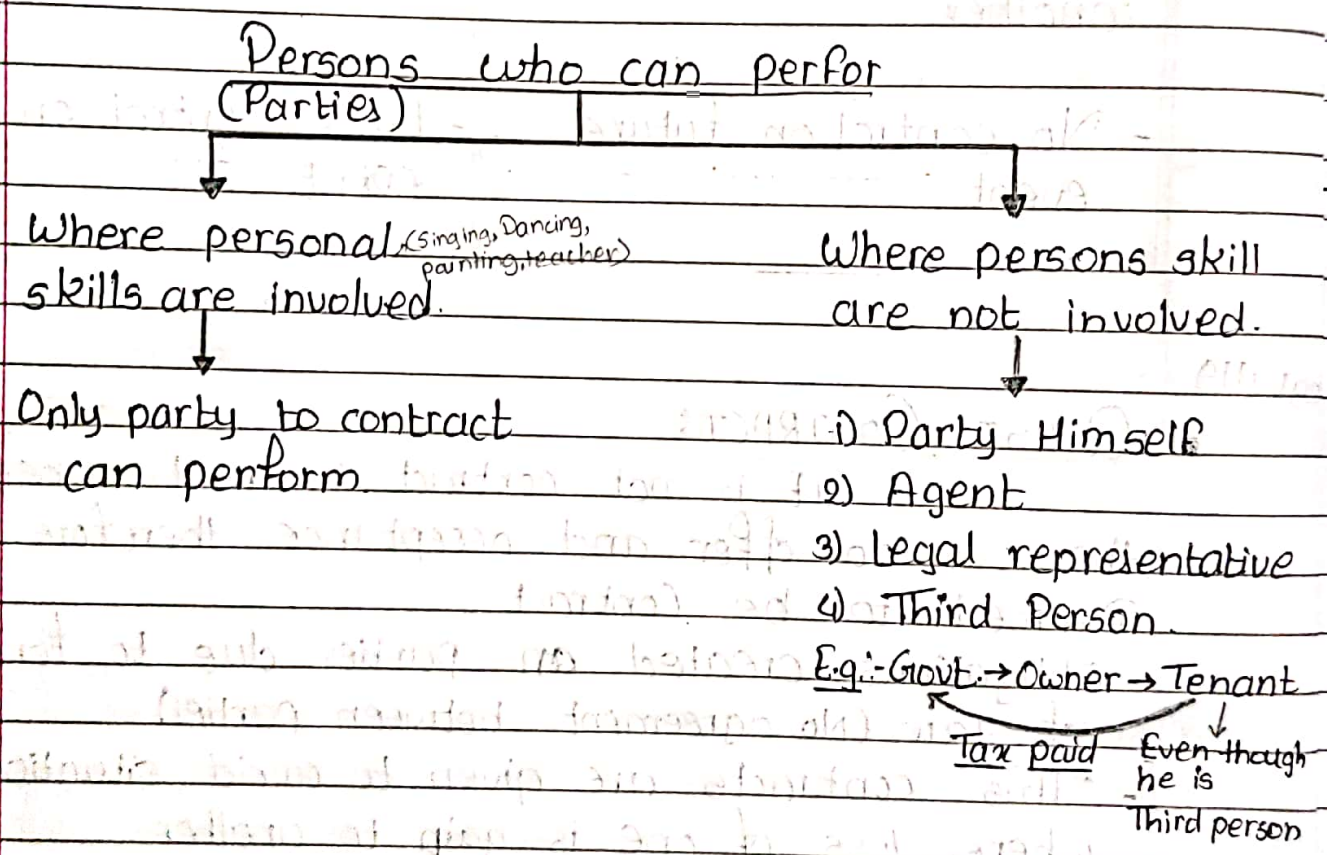
- 1) Claims for necessary supplied to persons incapable of contracting (Section 68). (Minor, unsound mind)
- 2) Right to recover money paid for another person (Section 69)

Gratuitous → free of cost  
Non-Gratuitous → for which money is paid.

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- 3) Obligation of a person enjoying benefit of non-gratuitous act (Section 70)
- 4) Responsibility of a finder of goods (71)
- 5) Liability for money paid or thing delivered by mistake or under coercion (Section 72)

• PERFORMANCE OF CONTRACT:



5) Joint Promisor  
Dhol movie - Kishore S. Kumar, R. Suresh Kumar  
© Police 10.02.2000 Tech -

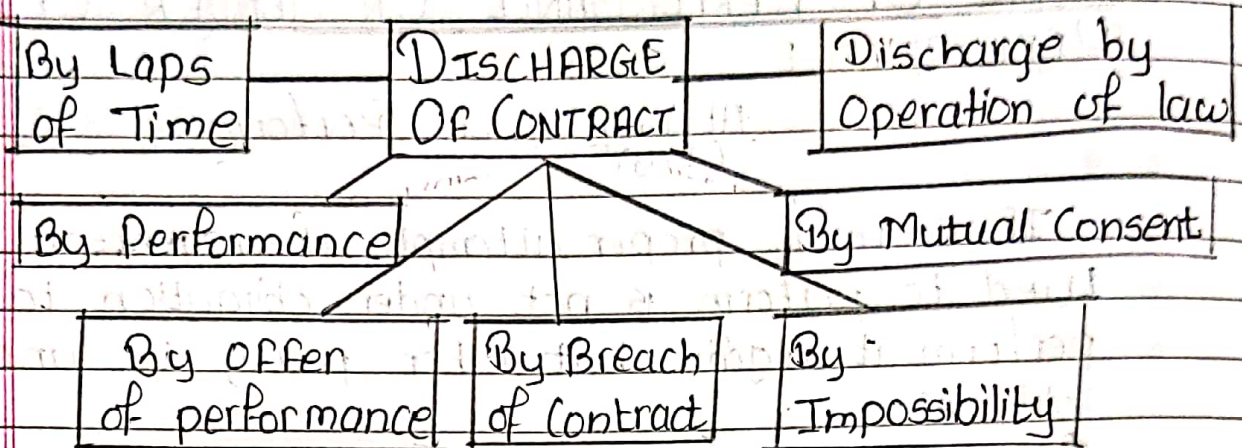
## OFFER OF PERFORMANCE OR TENDER OF PERFORMANCE :

### Attempt to Perform (Try)

- IF there is proper attempt then person who tried to perform is not under obligation to perform it again but other party is under obligation.
- But in case of money person shall pay it later and interest shall not be paid for period after the offer of performance.

### • Proper Attempt :

- ① Reasonable opportunity shall be given to other party to accept performance (Delivery).
- ② Within Business Hour.
- ③ Within reasonable time or specified time (Domino's - 30 minutes)
- ④ Performance should not be in parts. (But if part delivery is made to complete whole delivery then it is valid).
- ⑤ Shall be performed for appropriate person.



### • DISCHARGE BY MUTUAL CONSENT:

1) Novation of contract :- 62.

- a) New contract may be introduced
- b) New party may be introduced.

2) Alteration of Contract: (62)

- Change in terms and conditions of existing contract.

3) Remission: (68)

- Acceptance of lesser performance.
- Example :- Cash Discount.

4) Rescission: ~~68~~

- Cancelling the contract.

5) Waiver:

- Giving up of rights by parties.



• DISCHARGE BY BREACH OF CONTRACT : (Section 39)

Types of Breach

Actual Breach

Anticipatory Breach

Breach of Contract on performance date

Breach of contract before performance date.

after 1 month.

80th July 2019

IF Breach of contract

80th August 2019

Contract date

is before performance date

Performance date

IF there is a breach

Anticipatory Breach.

Then it is actual Breach

Option to party to treat it as breach immediately or wait till performance date & then file suit.

One of the option selected can not change later.

Actual loss - Ordinary Circumstances of loss

By CMA CS Rohan Nimbalkar  
Performance Damage. If there is no loss

• Remedies For Breach of Contract

① Damages:

a) Ordinary Damages: When there is actual loss.

- loss from buyers point of view:

Market Price - Cost Price.

- loss from sellers point of view:

Cost Price - Market Price.

b) Nominal Damages:

When there is no actual loss to any party then nominal damages paid to aggrieved party to maintain his Right of decree. → To file suit.

• It might be even ₹ 1.

c) Remote / Indirect Damages:

Remote damages are not paid as there is no direct connection between loss and Breach of Contract.

d) Special Damages:

If remote consequences are brought to the notice of other party then if there is loss due to remote situation then party may claim damages known as special damages.

e) Vindictive / Exemplary Damages:

This damages can be claimed if:-

1) There is injury to emotions (Breach of promise to marry)

① Wrongful dishonour of cheque:  
(Lesser the amt of cheque higher the amt of Damages)

## ② SPECIFIC PERFORMANCE:

- Request to court to order other party to complete the contract on same terms and conditions. In following cases specific performance is generally ordered:

- 1) Immovable Property
- 2) Antique Goods
- 3) Where damages are not sufficient.

## ③ QUANTUM MERUIT:

(As much as earned)

A) If contract is being executed

B) But contract can not be completed due to impossibility or Breach of Contract.

C) Then court may order Quantum Meruit where party will pay to other party to the extent of contract completed.

## • DISCHARGE BY IMPOSSIBILITY

## • DISCHARGE OF IMPOSSIBILITY

Initial  
Impossibility

Void Agreement

Subsequent/  
Supervening  
Impossibility

It was valid contract when it was made but due to subsequent impossibility it becomes void contract.

Example of subsequent impossibility:

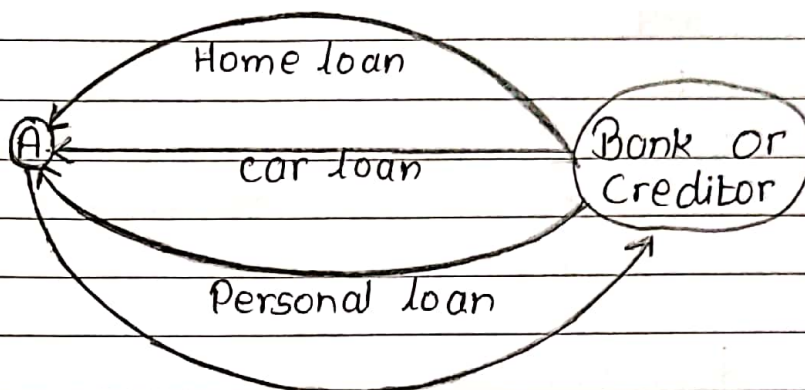
- 1) Change in law
- 2) Declaration of war
- 3) Destruction of subject matter
- 4) Death or insanity of partner.

## • DISCHARGE OF OPERATION OF LAW:

- ① Death of any party
- ② Insolvency of party.

## • Appropriation Of Payment : (59 to 61)

One person took different types of loan from another party.



IF A paid ₹ 50,000 then  
it will be adjusted against  
which loan?

- ① Payment shall be adjusted according to instructions given by debtor.
- ② IF instructions not given by debtor then the creditor may adjust it against any loan except disputed or illegal loan.
- ③ IF payment is not adjusted by debtor or creditor (Adjustment pending from long time).
  - Adjusted against loan which was taken earlier.
  - IF all loans are taken on same day then amount adjusted (in all loans) proportion of loan amount of each loan.

# INDIAN CONTRACT ACT, 1872

## Nature of Contract

1. Atharva, a minor borrowed ₹ 1000 from Parth and agreed to repay it within three months. He failed to return the amount after stipulated period of time. Can Parth realize his money from Atharva through a court of law?
2. Mr. Karan promised to pay ₹ 50,000 to his wife Mrs. Kiran so that she can spend the sum on her 30th birthday. Mrs. Kiran insisted her husband to make a written agreement of he really loved her. Mr. Karan made a written & registered agreement. Mr. Karan could not pay the specified amount to his wife. Mrs. Kiran wants to file a suit against Mr. Karan for recovery of promised amount. Advise whether Mrs. Karan will succeed. (3 Marks) (Nov. 2018)

## 2. Offer & Acceptance

3. CK Soap Co. advertised that it would give a reward of ₹50,000 if anyone develop skin disease after using, CK soap of the company. Miss Disha purchased the advertised soap and developed skin disease in spite of using this soap according to the instructions. She claimed reward but company refused pay on the ground that offer was not made to her as well as she had not communicated her acceptance of the offer. Decide whether Miss disha can claim the reward or not. Advice Disha with reference to provisions and applicable case law.
4. Ramaswami proposed to sell his house to Ramanathan. Ramanathan sent his acceptance by post. Next day, Ramanathan sends a telegram withdrawing his acceptance. Examine the validity of the acceptance in the light of the following:
  - (i) The telegram of revocation of acceptance was received by Ramaswami before the letter of acceptance.
  - (ii) The telegram of revocation and letter of acceptance both reached together. (RTP Nov. 2018)
5. Nikita offered through an advertisement newspaper to sell designer goods on a particular date at a particular place a Shimla. In response to the advertisement Aachal travelled all the way from Pune to Shimla and found that the place was locked and there was no such sale and goods are already sold. She wanted to sue Nikita. Advise Aachal about appropriate course of action?

## Consideration

6. Transferred his house to his daughter M by way to gift. The gift deed, executed by X, contained a direction that M shall pay a sum of ₹ 5,000 per month to N (the sister of the executant). Consequently M executed an instrument in favour of N agreeing to pay the said sum. Afterwards, M refused to pay the sum to N saying that she is not liable to N because no consideration had moved from her. Decide with reasons under the provisions of the Indian Contract Act, 1872 whether M is liable to pay the said sum to N.

7. Mr. B, an old man, by a registered deed of gift, granted certain landed property to Ms. R, his daughter. By the terms of the deed, it was stipulated that an annuity of ₹ 20,000 should be paid every year to Mr. S, who was the brother of Mr. B. On the same day Mrs. R made a promise to Mr. S and executed in his favour an agreement to give effect to the stipulation. Ms. R failed to pay the stipulated sum. In an action against her by Mr. S, she contended that since Mr. S had not furnished any consideration, he has no right of action. Examining the provisions of the Indian Contract Act, 1872, decide, whether the contention of Ms. R is valid? (RTP No. 2018)

## Capacity of Parties

8. X, a minor was studying in B.Com in a college. On 1st July, 2005 he took a loan of ₹ 10,000 from B for payment of his college fees and to purchase books and agreed to repay by 31st December, 2005, X possesses assets worth ₹ 2 lakhs. On due date X fails to pay back the loan to B. B now wants to recover the loan from X out of his (X's) assets. Referring to the provisions of the Indian Contract Act, 1872 decide whether B would succeed.

## Free consent

9. A threatened his wife and son to commit suicide if they did not agree to transfer A's house to his brother. Thereupon his wife and son agreed to transfer the house. Subsequently, his wife and son filed a suit to set aside the transfer. Will they succeed?
10. A has two cars, a Fiat and an Ambassador. He agreed to sell one of the cars to B. B is thinking that he is buying Fiat car, whereas A is thinking that he is selling Ambassador car. Is there any contract created?

## Void Agreements

11. Mr. Seth an industrialist has been fighting a long-drawn litigation with Mr. Raman another industrialist. To support his legal campaign Mr. Seth enlists the services of Mr. X a legal expert stating that an amount of ₹ 5 lakhs would be paid, if Mr. X does not take up the brief of Mr. Raman. Mr. X agrees, but at the end of the litigation, Mr. Seth refuses to pay. Decide whether Mr. X can recover the amount promised by Mr. Seth under the provisions of the Indian Contract Act, 1872.
12. A and B agree to share the proceeds of a robbery committed by them. A lends ₹ 500 to B to buy implements required for the robbery. Can A recover from B the money lent by him (A). Give reasons.

## Contingent Contracts & Quasi Contracts

13. Y holds agricultural land in Gujarat on a lease granted by X, the owner. The land revenue payable by X to The Government being in arrear his land is advertised for sale by the Government. Under the Revenue law, the consequence of such sale will be termination of lease. Y, in order to prevent the sale and the consequent termination of his own lease, pays the Government, the sum due from X. Referring to the provisions of the Indian Contract Act, 1872 decide whether X is liable to make good to Y, the amount so paid?
14. A shopkeeper sent a bag of rice to B. The cart driver delivered the bag to B's neighbour by mistake. Can the shopkeeper recover the price of the bag from B's neighbour? B's neighbour pleads that he never asked for the supply of rice and, therefore, not liable to pay. Advise the neighbour?
15. An insurance company paid money by mistake on a policy which had lapsed. Though the company was not ignorant of the fact of lapsing, but this was overlooked at the time of payment. Can the company recover the amount?

## Performance of Contract

16. X, Y and Z are partners of software business jointly promise to pay ₹ 30,000 to A. Over a period of time Y became insolvent, but his assets are sufficient to pay one-fourth of his debts. Z is compelled to pay the whole. Decide whether Z is required to pay whole amount himself to A in discharging joint promise?
17. A agreed to sell 10 tons of wheat to B. No time of delivery has been fixed. At 11 P.M. A takes a truck of wheat to B at his house. Is it a valid tender?

## Discharge of Contracts

18. Mr. Ram of Chennai placed an order with Mr. Shah of Ahmedabad, for supply of urad dal on 10.11.2006 at a contracted price of ₹ 40 per kg. The order was for the supply of 10 tonnes within a months' time viz., before 9.12.2006. On 4.12.2006 Mr. Shah wrote a letter to Mr. Ram stating that the price of uraddal was sky rocketing to ₹ 50 Per. Kg. and he would not be able to supply as per original contract. The price of urad dal rose to ₹ 53 on 9.12.2006 Advise Mr. Ram citing the legal position.
19. M Ltd. contracts with Shanti Traders to make and deliver certain machinery to them by 30.6.2004 for ₹ 11.50 lakhs. Due to labour strike M Ltd. could I manufacture and deliver the machinery to Shanti Traders. Later, Shanti Traders procured the machinery from another manufacturer for ₹ 12.75 lakhs. Shanti Traders was also prevented from performing a contract which it had made with Zenith Traders at the time of their contract with M Ltd. and were compelled to pay compensation for breach of contract. Advise Shanti Traders the amount of compensation which it can claim from M Ltd. referring to the legal provisions of the Indian Contract Act.



20. A mill owner sent a machine for necessary repairs to a workshop. The workshop delayed the machine beyond a reasonable time. Consequently, A's mill had to be closed down. A claim loss of profit he would have earned had the mill not closed down. Advice A.
21. Mr. X and Mr. Y entered into a contract on 1st August, 2018, by which. Mr. X had to supply 50 tons of sugar to Mr. Y at a certain price strictly within a period of 10 days of the contract. Mr. Y also paid an amount of ₹ 50,000 towards advance as per the terms of the above' contract. The mode of transportation available between their places is roadway only. Severe flood came on 2nd August, 2018 and the only road connecting their places was damaged and could not be repaired within fifteen days. Mr. X offered to supply sugar on 20th August, 2018 for which Mr. Y did not agree. On 1st September, 2018, Mr. X claimed compensation of ₹ 10,000 from Mr. Y for refusing to accept the supply of sugar, which was not there within the purview of the contract. On the other hand, Mr. Y claimed for refund of ₹ 50.000 which he had paid as advance in terms of the contract. Analyse the above situation in terms of the provisions of the Indian Contract Act, 1872 and decide on Y's contention. (4 Marks) (Nov 2018)