

UNIT : 2 [CONSIDERATION]

Quid pro quo
(Something in return)

What is consideration?

[Sec 2(d)]

- When at the desire of the PROMISOR
- The promisor OR any other person
- Has done OR abstained from doing (PAST)
- Does OR abstains from doing (PRESENT)
- Promises to do OR abstains from doing something (FUTURE)
- Such an act OR abstinence OR promise
- Is called CONSIDERATION FOR THE PROMISE

Defines ÷

→ Consideration is an act of doing something

→ Consideration is abstinence

From stopping for doing something

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SATURDAY
MARCH 2018

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→ Consideration must be at the desire of the promisor.

→ Consideration may move from promisee or any other person.

→ Consideration may be

- Post
- Present
- Future

CONSIDERATION :-

- (PROMISE)
- Performance that parties exchange with each other.

Legal Rules Regarding consideration :-

18 SUNDAY 1. Consideration must move at the desire of the promisor :

Consideration must be offered by the promisee
OR

The third party

At the desire or request of the promisor

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• This implies 'return'

Element of consideration.

An act done at the desire of 3rd party] → Not a consideration

Durga Prasad v. Baldeo

D promised to pay P a certain commission on articles which would be sold through their agency in market.

Market constructed by P at the desire of C (not at the desire of D)

D was not bound to pay as it was without consideration

hence, void

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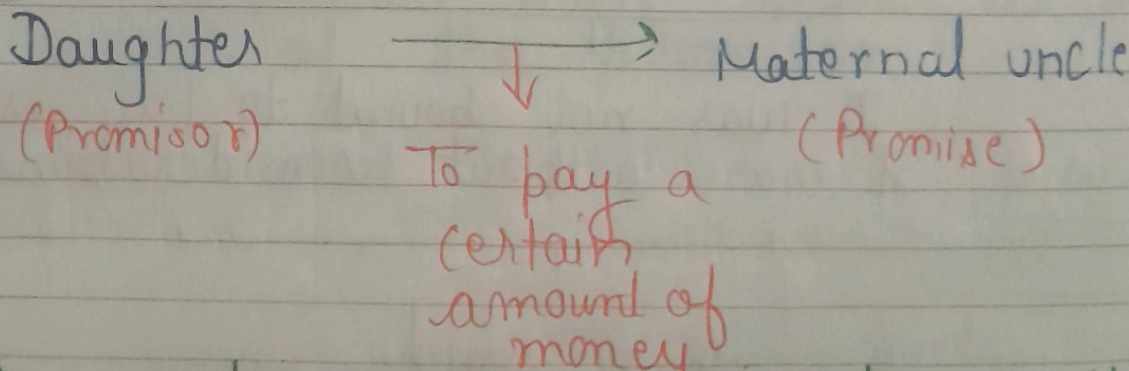
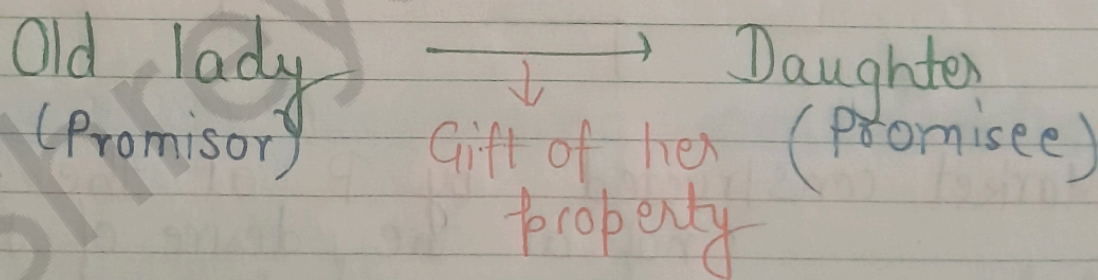
(ii) Consideration may move from promisee or any other persons :-

Consideration may proceed from the

- promisee
- or any other person who is not a party to the contract.

When they does something such an act is consideration.

Case law :-



So there can be a stranger into the consideration but not stranger to contract (Sufficient consideration for uncle by old lady)

(iii) Executed and executory consideration

↓ Consist in performance of an act

↓ Consists in promises.

(iv) Consideration may be past, present or future :-

has done / abstained from doing → Doctrine of past consideration (Section 2(d))

_____ | _____

Past consideration must move by previous requests

(v) Consideration needs not to be adequate :-

CONSIDERATION ———→ Must be equal to value of thing promised to be exchanged

—————→ Or the thing exchanged will be lawful.

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Explanation 2 to 25 states :-

→ An agreement in which consent is free is not **VOID** just bcz. consideration is inadequate.

But if it's shockingly less

And the party alleges the consent was not free,

Can be EVIDENCE in support of allegation

then this inadequate consideration



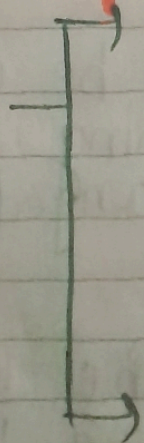
(vi) Performance of what one is legally bound to perform :-

No consideration

To promise to pay money to a witness

Void

To pay a client



(vii) Consideration must be real and not illusory ÷

- I It must be something } That attaches some value by law.
- II If it legally impossible } Not a valid consideration

(viii) Consideration must be lawful; not be immoral or opposed to public policy.

Presence of consideration is sufficient, } when it is lawful.

◦ Immoral } Not valued as valid consideration
◦ Opposed to public policy }

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Suit by 3rd party to contract

Consideration may come from 3rd party

But the stranger to contract cannot sue on it, only a party on contract can sue on it

Stranger to contract cannot sue is known as 'doctrine of priority of contract'

Exceptions of this doctrine is below:

(Cases where even, a stranger to contract can sue.)

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SUNDAY

1. In case of trust: Beneficiary can enforce his rights.
2. In case of family settlement: Terms in writing, family members

3. In case of marriage contracts and arrangements :

4. In case of assignment of contract:
Benefit assigned

5. Acknowledge / estoppel : Person represent himself as an agent of third party, binding obligations towards third party

6. In case of covenant running with the land.

- Person who purchases land with notice that owner is bound by certain duties.
- Covenant affecting land may be enforced by successor of seller.

7. Contracts entered into through agents:

Principal can enforce contract entered by agent if agent has acted within scope of his authority in name of principal

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TUESDAY

MARCH

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Validity of an agreement without consideration

Sec 25 - Agreement without consideration is void.

Exceptions to 'No Consideration, No Contract' or agreement without consideration is valid in following cases.

1. Natural love and affection:-

- (i) Must be made by natural love & affection
- (ii) Parties must stand in near relationship
- (iii) Must be in writing.
- (iv) Must be registered under law.

All conditions to be fulfilled

Sec 25(1)

2. Compensation for past voluntary services :-

- i) Services - voluntary :-
- ii) Services rendered for promisor
- iii) Promisor must be in existence when services rendered
- iv) Promisor must intend to compensate promisee.

All conditions Sec 25 (2)

3. Promise to pay time barred debt :-

- (i) Promise in writing
- (ii) Signed by person making it or his authorised agent
- (iii) To pay time barred debt (Limitation Act)

4. Agency :-

Sec 185 of Indian Contract Act, 1872

5. Completed Gift :-

Rule → No Consideration, no contract
does not apply

Sec 25(1) Explanation + Nothing in this section
affect validity as b/w donor & donee of any gift

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THURSDAY

MARCH

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6. Bailment ÷

Sec 148 of Indian Contract Act 1872

7. Charity ÷

- If promisee undertakes liability
- On promise of person.
- To contribute to charity.
- Contract shall be valid.

Case law : Kedarnath V. Gorie Mohammed (1886)

- Town - hall construction
- By commissioner of Howrah municipality : subscription is invited.
- The defendant was a subscriber to this fund of Rs 100, on the faith of promised contract, the plaintiff

(Desire - Defendant's
Desire)

vice chairman of
municipality

entered into a contract with a contractor, was done at the desire of the defendant (promisor)

Constitute consideration
[Valid]