

OFFER + ACCEPTANCE = AGREEMENT

AGREEMENT + ENFORCEABLE BY LAW = CONTRACT

OFFER

(Sec 2(a))

- signify willingness to another
- to do / abstain
- to obtain assent

PROMISE

(Sec 2(b))

- when assent signified on proposal

AGREEMENT

(Sec 2(e))

- Promise / set of promise
- forming consideration
- may not create legal obligation

CONTRACT

(Sec 2(h))

- Agreement enforceable by law
- creates legal obligation

KINDS OF OFFER

GENERAL

- To Public at Large
- [Carlil v. carbolic smokeball co.]

SPECIAL

- To specified person
- [Boulton v. Jones]

CROSS

- Exchange of identical offer
- No Binding Contract

COUNTER

- Conditional Acceptance
- Offer accepted subject to modification

STANDING

- Continuing / open offer
- Open for Acceptance over period of time

ESSENTIAL OF VALID OFFER

Legal Relation

Legal relation must be created

Certain, Definite, Not Vague

No contractual relationship if indefinite / vague

Communicated to offeree

Must be communicated [Lalman Shukla v. Gauri Dutt]

Assent

must be obtained

Conditional

Can be subject to T&C

- Not contain term non-compliance of which would amount to acceptance

Specific / General

made to public at large / specified person

Express / Implied

offer can be in words or by conduct

Invitation to offer

- Terms proposed for negotiation
- Act precedent to offer
- Can be converted into offer

LEGAL RULES - VALID ACCEPTANCE

- Given by person to whom offer is made
General offer : Accepted by anyone
Special offer : Accepted by specific person
- **Absolute & unqualified**
[Neale vs Merret]
- **Must be communicated**
Conditional acceptance ≠ Acceptance.
[Brogden v. Metropolitan Railway Co.]
- **Prescribed Mode**
If mode prescribed Acceptance in that mode

- **Time**
If mentioned : within specified time
If not : within reasonable time
- **Mere Silence Not Acceptance**
[Felthouse v. Bindley]
- **By Conduct / Implied Acceptance**
• Modes other than verbal / written

Communication of offer

[Sec 4]



Complete



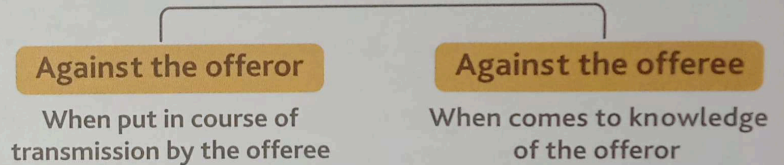
When comes to knowledge of offeree

Communication of Acceptance

[Sec 4]



Complete



Revocation of Acceptance & offer

[Sec 5]

Revocation of offer



Anytime before it is accepted by offeree



Legal भाषा मे



"Revoked anytime before communication of Acceptance is complete as against the offeror"

Revocation of Acceptance



Anytime before it comes in knowledge of the offeror

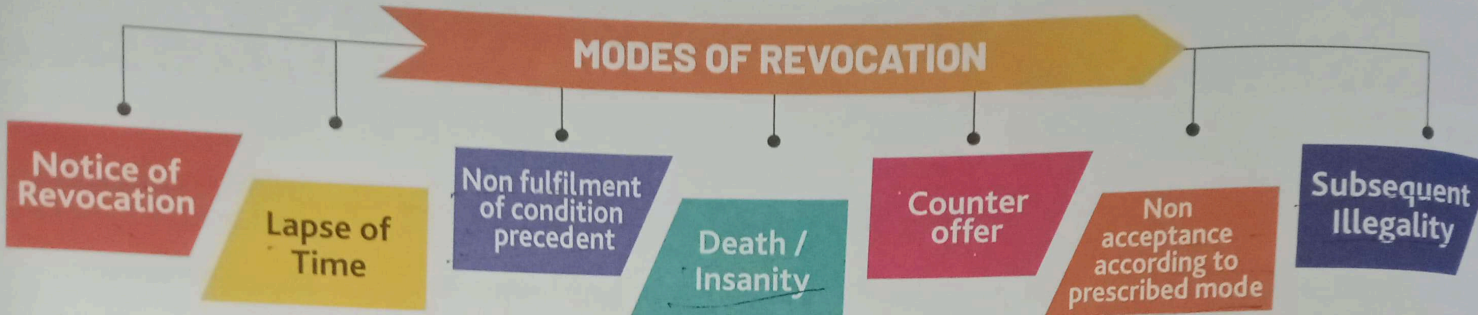


Legal भाषा मे



"Revoked anytime before communication of Acceptance is complete as against the offeree"

MODES OF REVOCATION



ESSENTIALS OF VALID CONTRACT

Other than Section 10

Two Parties

- Offeror & Offeree
- Natural / legal person
- [State of Gujrat v. Ramanlal S Co.]

Legal Obligation

- Social / Domestic Agreement → Not enforceable
- [Balfour v. Balfour]

Other Formalities in certain cases

- Contract → Written / Verbal
- Ex: Insurance → written contract

Certainty of Meaning

- Must be certain
- Not to be indefinite / vague

Possibility of Performance

- Terms → capable of performing
- Agreement to do impossible act → not enforceable

Section 10

Agreement

- Promise or set of promises forming consideration

Free Consent

- "Consensus ad idem" → "some thing in same sense"
- Consent
 - Free ✓
 - Coercion, Fraud, Mistake Undue Influence, Misrepresentation ✗

Capacity of Parties

- Major, Sound mind, Not disqualified by law

Consideration

- "Quid Pro Quo" → "Something in Return"
- Right / interest / Benefit OR Loss / Responsibility suffered

Lawful consideration & object

- Not lawful if ☐ Immoral, Prohibited by law, Fraudulent, defeat provision of Law, opposed to Public Policy.

- Not expressly declared void
- Not Illegal / Void

TYPES OF CONTRACTS

On the basis of

VALIDITY

- Valid
- Void
- Voidable
- Illegal
- Unenforceable

FORMATION

- Express
- Implied
- Quasi
- E-Contract

PERFORMANCE

- Executed
- Executory

ON THE BASIS OF VALIDITY

Valid

- Enforceable
- Contains all essential elements

Void

- Not enforceable by law

Voidable

- Enforceable at the option of aggrieved party
- When consent → Not Free

Illegal

- Law forbids to be made

Unenforceable

- Good in substance
- Unenforceable due to technical defects

ON THE BASIS OF FORMATION

Valid

- Terms expressed in writing / words

Implied

- Came into existence by
 - Action
 - Conduct
 - Course of Dealing
- Tacit Contracts (Silent)

Quasi

- Not actual contract
- Resembles a contract
- No intention of parties
- Imposed by Law

E-Contract

- Electronic means
- Also known as cyber contract, mouse click contract etc.

ON THE BASIS OF PERFORMANCE

Executed

- Consideration in form of act or forbearance
- No obligation pending on part of parties

Executory

- Consideration in form of Reciprocal Promise (mutual promise to do / not to do)
- To be performed in future

Unilateral

- one party performed duty
- other party's obligation outstanding

Bilateral

- obligation pending on part of both the parties

CONSIDERATION

Section 2 (d)

- When at the desire of Promisor
- Promisee or any other person
- Has done or abstained (Past), does or abstain (Present), Promises to do or abstain (Future)

Such act / abstinence / Promise → Consideration

Legal Rules → Consideration

At the desire of Promisor

- If at desire of 3rd party → Not a consideration
- [Durga Prasad v. Baldeo]

From Promisee or any other person

- Stranger to consideration ✓
- Stranger to contract ✗
- [Chinnaiya v. Ramaiyya]

Consideration

- Executed → consists in performance
- Executory → consists in promise

Consideration

- Past / Present / Future

Need not be Adequate

- Bad Bargain
- Something in return need not be equal to something given
- If consent free → cannot be void, just because consideration is inadequate

Must not be performance of what one is legally bound to perform

- Example : Paying ₹ 10,000 to police officer to investigate crime → Not a valid consideration

Consideration

- Real (Something, to which law attaches value)
- Not Illusory (not physically / legally impossible)

Must not be unlawful / Immoral / opposed to Public policy

Doctrine of Privity of Contract

- Private relation exists between the parties.
- "Stranger to contract cannot sue"
- Only party to contract can sue.
- EXCEPTIONS → Suit by third party to contract

SUIT BY THIRD PARTY TO CONTRACT

Type of Contract	Contracting Parties		3rd party
	1 st party	2 nd party	
→ Trust	Settler	Trustee	Beneficiary
→ Family Settlement	Family member	Family member	Family member not included in Contract
→ Marriage Contract	Family member	Family member	Female member
→ Assignment	First party	Assignor	Assignee
→ Estoppel by Acknowledgement of Liability	Giver	Receiver	Beneficiary
→ Covenant Running with Land	Seller	Buyer	Successor of seller
→ Agent	First party	Agent	Principal

Validity of Agreement without Consideration

General Rule : Agreement without consideration → Void But → certain exceptions

Natural Love & Affection Sec 25 (1)

- Near relationship
- In writing
- Registered under Law

Compensation for past voluntary services Sec 25 (2)

- Services rendered voluntarily for Promisor
- Promisor intended to compensate

Time Barred Debt Sec 25 (3)

- Promise in writing
- Signed by person or his agent to pay time Barred Debt

Agency

- Sec 185: No consideration necessary to create agency

Completed Gift Sec 25 (1)

- "No Consideration – No Contract" Do not Apply

Bailment Sec 148

- No consideration required to effect contract of "Gratuitous Bailment" (Free में)

Charity Sec 148

- Promisee takes Liability
- On promise of person to contribute to Charity
- [Kadarnath v. Gorie Mohammad]

Did You Know that Faculty at Vidhyoday produced Three Times All India Rank 1 in CS.

OTHER ESSENTIAL ELEMENTS OF CONTRACT

Section 11

Capacity to Contract

- Major
- Sound Mind
- Not disqualified by Law

LAW RELATING TO MINOR'S AGREEMENT

- Contract → void-ab-initio** (Mohari Bibi v. Dharmo Das Ghose)
- No Ratification after attaining majority**
 - Void agreement can never be ratified
- Beneficiary**
 - Minor → not competent to contract → Can take benefit out of contract
- Can always plead minority**
 - Rule of Estoppel cannot be applied
 - Even when falsely represented majority
- Liability for Necessaries Sec 68**
 - No personal liability, only his property liable
 - 2 conditions
 - Goods reasonably necessary
 - Not have sufficient supply
- Contract by Guardian**
 - Within competence
 - On minor's behalf → for benefit of minor
- Shareholder**
 - Only in case of → Transfer / Transmission, minor can be shareholder
 - of fully paid up shares
 - through lawful Guardian

- No Specific Performance**
 - Void agreement → therefore no specific performance
- No Insolvency**
 - Debt & dues payable from personal property
 - Never held personally liable
- Partnership Sec 30**
 - Cannot be partner → can be admitted to benefits
- Agent**
 - But not liable to principal for his acts
- Cannot bind Parent / Guardian**
 - Parents liability → when child act as an agent for them
- Joint Contract**
 - Minor + Adult → Adult Liable
 - [Sain Das v. Ram Chand]
- Surety**
 - Contract of Guarantee
 - Debtor is minor surety (Adult) is liable to third party
- Torts**
 - Civil wrong (ex: Defamation etc) • Liable for torts • Not liable for breach of contract

PERSON OF SOUND MIND SEC 12

usually unsound mind occasionally sound mind

- Make contract, when of sound mind

usually sound mind occasionally unsound mind

- Not make contract, when of unsound mind

NOT DISQUALIFIED BY LAW

Persons disqualified

Foreign Sovereign

Alien Enemy

Convicts

Insolvent

FREE CONSENT

Consent is Free, when not caused by

Coercion
(Sec 15)

Undue Influence
(Sec 16)

Fraud
(Sec 17)

Misrepresentation
(Sec 18)

Mistake
(Sec 20, 21, 22)

VOIDABLE

VOID

COERCION

- Committing / threatening to commit any Act (Forbidden by IPC)
- Unlawful detaining / threatening to detain any property
- Intention : to cause person to make agreement
- Effect : 1 Contract voidable
- Effect : 2 Benefit received to be restored
- Proceed from party to contract
- Subject must be other contracting party

Not
Not
Necessary

UNDUE INFLUENCE

- Near Relation between 2 parties
- One of them is position to dominate
- Person Deemed to be in position to dominate:-
 1. Real & Apparent Authority (Father – Son)
 2. Fiduciary Relationship (Trust) (Husband – Wife)
 3. Mental Distress (Doctor Patient)
 4. Unconscionable Bargain (Unreasonable)
- Effect: 1 Contract voidable
- Effect: 2 May be set aside by court

FRAUD

Commission of Following act:-

1. Fact suggested → knows, not true
2. Active concealment of fact
3. Promise made without intention of performing
4. Other act filled to deceive
5. Any act declared by Law → as Fraud

Effect:-

1. Contract voidable
2. Sue for damages

Committed by:-

1. Party to contract, with his connivance
2. Agent of party to contract

Intention:-

1. To deceive
2. To induce to enter into contract

OR

1. Rescind → within reasonable time
2. Insist performance

Mere silence as to Facts → Not Fraud.

(Caveat Emptor : Let the buyer beware)

Exception : i.e.

Silence = Fraud

Duty of person keeping silence to speak

Fiduciary relationship, Insurance Contracts, Marriage contracts, Family Settlement, Share Allotment

Where Silence=Speech

Contract not voidable if party had means of discovering Truth.

MISREPRESENTATION

- Representation of fact which is not true but believes to be true
- Made without intention to deceive
- Causing other person to make mistake of subject matter
- Effect :
 - 1 Repudiate Contract
 - 2 Sue for Restitution
 - 3 Cannot Claim Damages

MISTAKE

- Two parties thing about different subject matter
- Lead contract towards 'voidness'
- Mistake of Law
 - Foreign Law : Excusable
 - Own Law : Not excusable
- Mistake of Fact
 - Unilateral → Not void
 - Bilateral → void

CONTRACT NOT VOIDABLE

Silence amounting to Fraud

Fraud / Misrepresentation

Enters into contract in ignorance of Fraud

- Had means to discover truth
- Did not cause consent of party

LEGALITY OF OBJECT & CONSIDERATION

Sec 23 : Consideration is said to be unlawful

Forbidden by Law

- Act punishable under any statute or prohibited

Defeat provisions of Law

- Intention of Parties → to defeat provision → Court will not enforce it

Fraudulent

- As per section 17

Consideration defeats any Rule for the time being in force in India

Consideration involves injury

- Harm to person or property of another

Consideration Immoral

Consideration opposed to Public Policy

Agreements opposed to Public Policy

Trading with enemy

- Agreement with person from country, at war with India → VOID

Stifling Prosecution

- Agreement to drop proceeding in consideration of amount → VOID
- Abuse of Justice
- Exception :- Consideration for compoundable offence

Maintenance & Champerty

- Agreement Valid except :
 - 1 Unreasonable
 - 2 Motive : Malicious

Interest against obligation

- Do something against his duty

Traffic relating to public offices

- Interferes appointment of best qualified person → VOID

Agreement to create monopolies

Marriage Brokerage Agreement

- Void
- Marriage Bureau → only provides information, Thus, not covered under this

Interference with course of Justice

- Agreement with Judicial officer to act partially / corruptly → VOID

Consideration Unlawful in part

- 1 or more objects → Part of single consideration
 - Single object → Part of several consideration
- Unlawful → VOID

VOID AGREEMENTS

By Incompetent Parties	Bilateral Mistake	Consideration / object unlawful	Agreement without consideration	In restraint of marriage (except Minor)
In restraint of Trade (except Sale of Goodwill & Partnership)	Restraint of Legal proceeding (except Arbitration)	Meaning uncertain	Agreement of service	Wagering Agreement
				To do Impossible Acts

WAGERING AGREEMENT

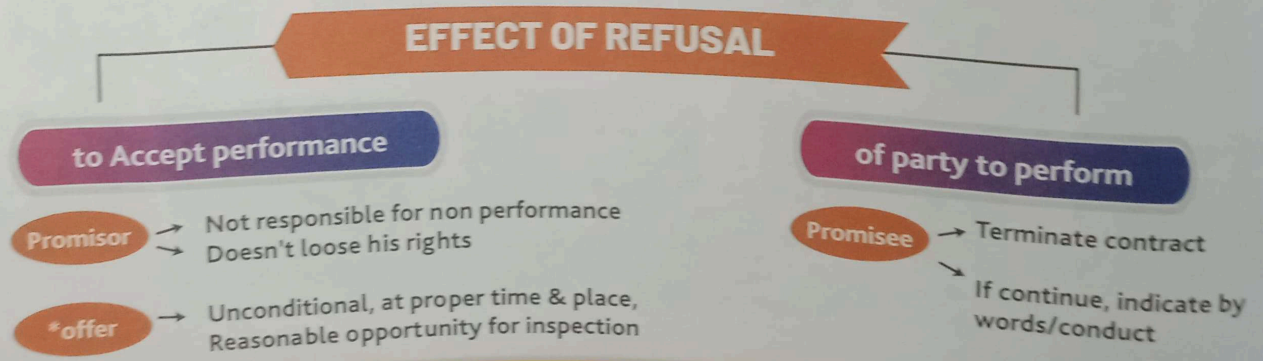
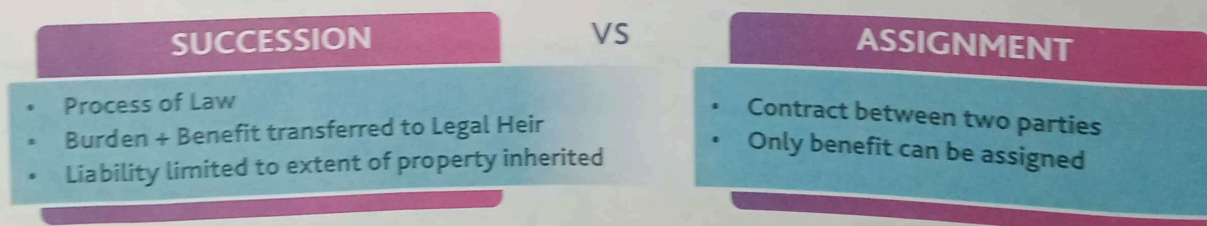
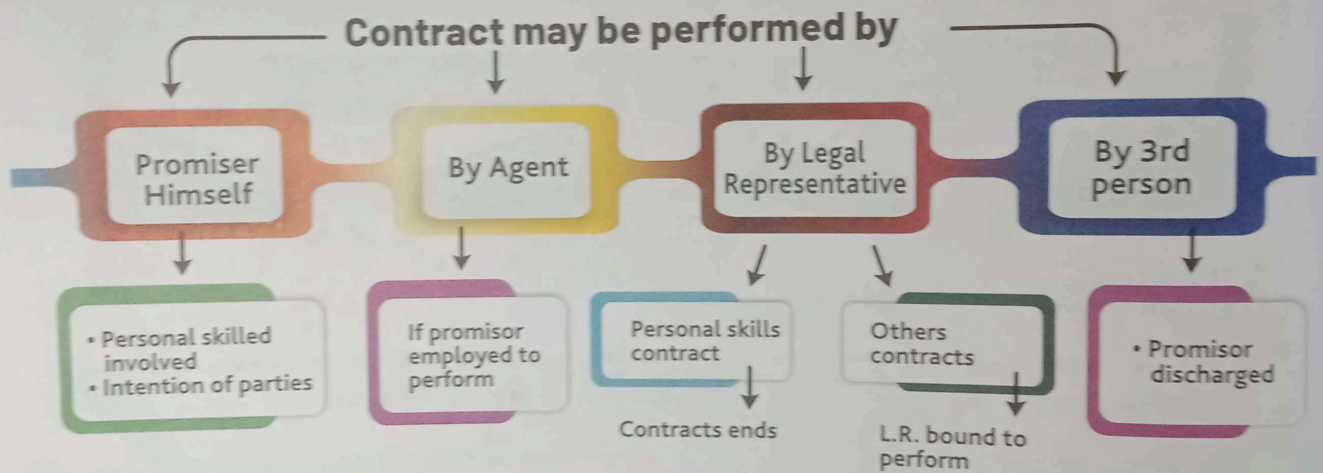
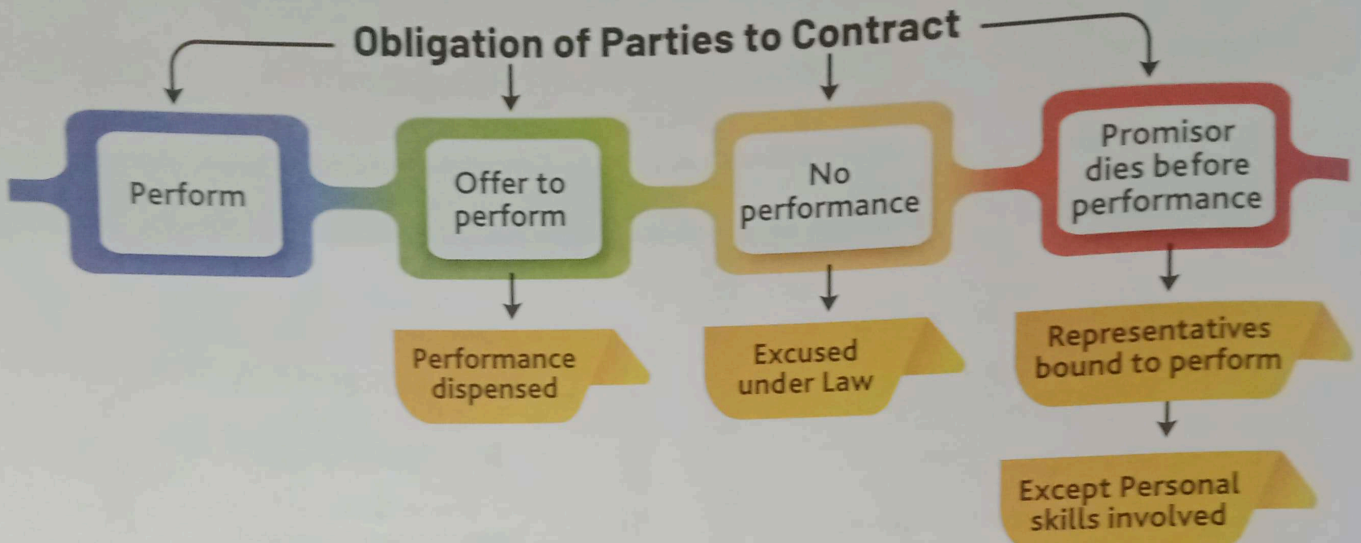
- Promise to pay money / money's worth
- No interest in event

Transaction similar to wager

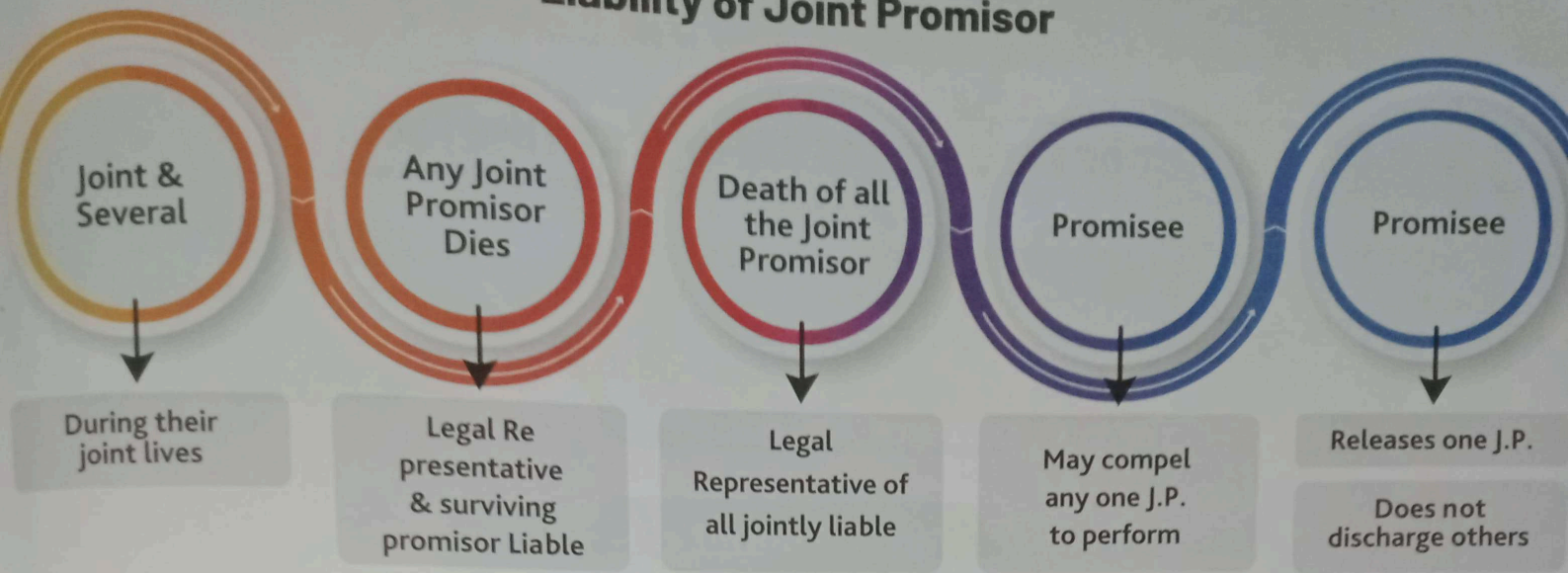
- Lottery
- Game of chance
- Crossword Puzzle & competitions
- Speculative Transaction
- Settlement of difference between Contract price & market price
- Horse Race Transaction

- Conditional on uncertain event
 - Win or lose
- ### Transaction resembling wager But not void

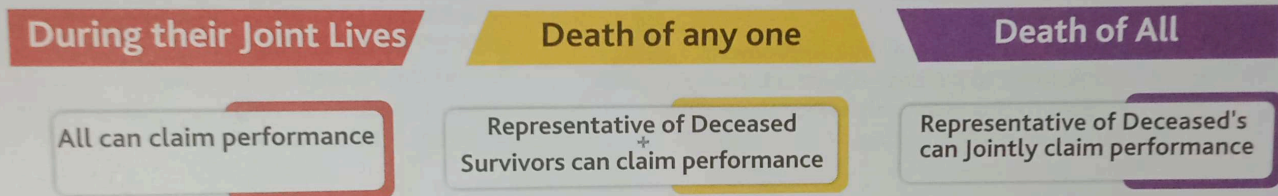
- Chit Fund Share
- Market Transaction
- Delivery of goods / shares → Not wager
- Game of Skills / Athletic Competition
- Contract of Insurance
- Type of Contingent Contract → Valid



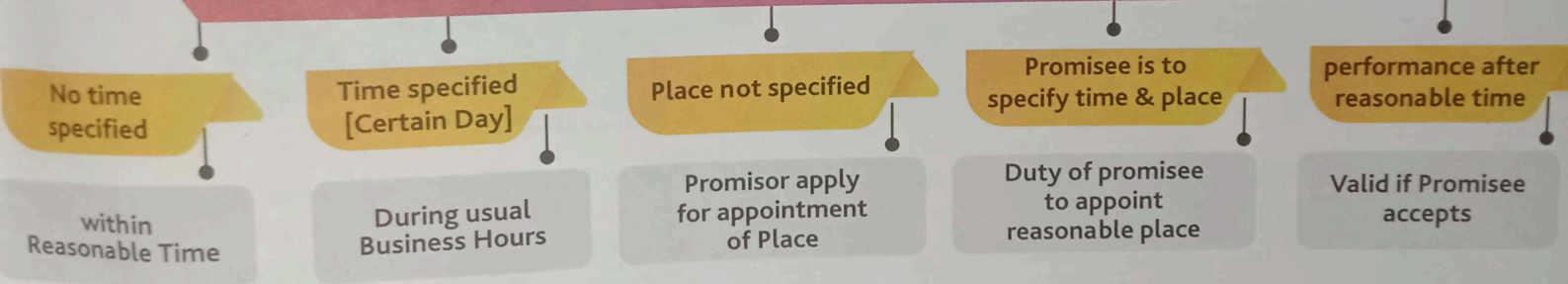
Liability of Joint Promisor



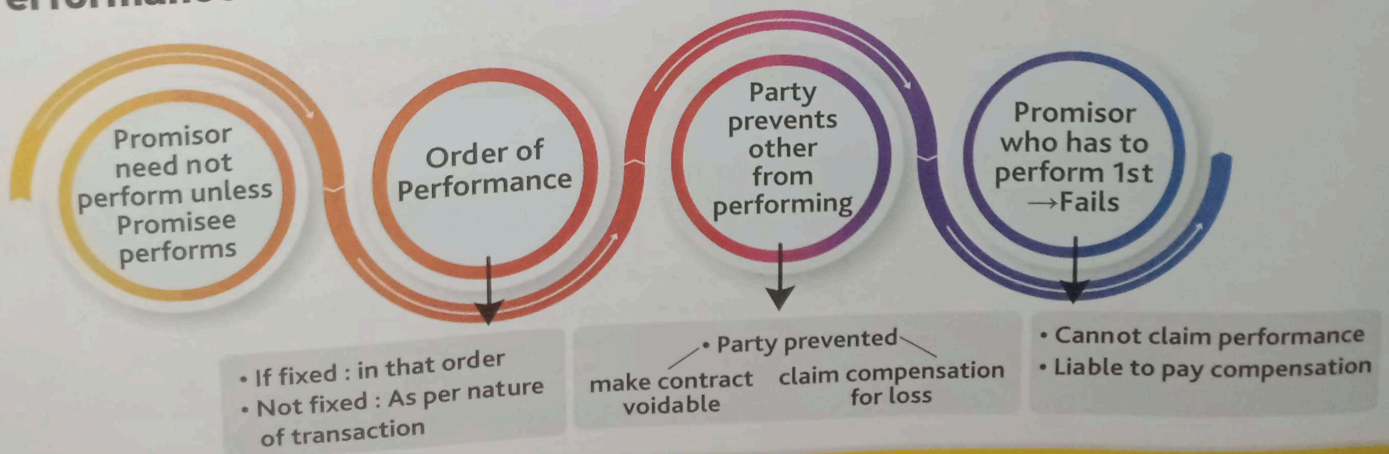
RIGHT OF JOINT PROMISEE



TIME & PLACE FOR PERFORMANCE



Performance of Reciprocal Promise (mutual Promise to do / not to do)



Have you heard About Our Holi Event "RANG De

EFFECT OF FAILURE TO PERFORM AT TIME FIXED

When Time is essential

- Voidable at option of Promisee

When Time is not essential

- Not voidable
- Promisee can claim compensation for loss

IMPOSSIBILITY

INITIAL IMPOSSIBILITY

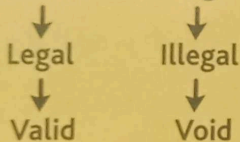
- Impossibility existing at time of contract
- Fact of Impossibility
 1. If known to parties → Void Agreement
 2. If unknown to parties → Contract Void
 3. Known to Promisor only → Promisee can claim compensation

SUBSEQUENT IMPOSSIBILITY

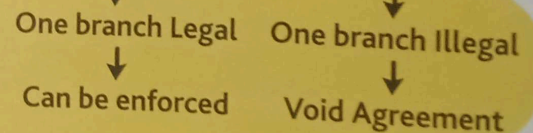
- Becomes impossible after entering into contract
- Also known as supervening impossibility or Doctrine of Frustration
- Parties discharge from further performance
- Contract it becomes void.

RECIPROCAL PROMISE

Certain things



ALTERNATIVE PROMISE



APPROPRIATION OF PAYMENTS

INDICATED BY DEBTOR

- Adjust as per express intimation Or implied circumstances

NOT INDICATED BY DEBTOR

- Creditor applies at his discretion
- To any lawful debt actually due

NEITHER PARTY APPROPRIATES

- Applied in order of time

Even time barred debt can be adjusted

CONTRACTS WHICH NEED NOT BE PERFORMED

Novation

Substitution of New Contract for old
Old Contract discharged

Alteration

- Substitute New Contract for old
- Terms can be altered not contracting parties

Rescission

- Cancellation of Contract
- No new Contract

Remission

- Acceptance of lesser fulfilment of terms

VOIDABLE CONTRACT

Person rescinding contract

Restore benefit Received

VOID AGREEMENT CONTRACT BECOMES VOID

Person who received advantage

Restore or Compensate for it

Effect of Neglect of Promisee

- Promisee → Not provided reasonable facilities for performance
- Promisor → excused by such neglect / refusal

DISCHARGE OF CONTRACT

By Performance

By Mutual Agreement

By Impossibility of Performance

By Lapse of Time

By Operation of Law

By Breach of Contract

Promisee may waive or Remit performance

Merger of Rights

Neglect of Promisee to afford promisor Reasonable facilities

Breach FAILURE OF PARTY TO PERFORM HIS/ HER OBLIGATION UNDER CONTRACT

ANTICIPATORY

- Breach occurring before time fixed for performance has arrived
- Express / Implied breach
- Effect —
 1. Rescind & Sue for Damages immediately.
 2. Not rescind & wait for performance
- Promisor may get benefit of supervening Impossibility

ACTUAL

- Breach occurs —
 1. when performance due
 2. during the performance
- Other party obtains Right of Action against defaulting party.

REMEDIES FOR BREACH OF CONTRACT

Suit for Damages

Rescission of Contract

Suit for Specific Performance

Suit for Injunction

Suit upon Quantum Meruit

SUIT FOR DAMAGES

ORDINARY

- Compensation for damages naturally arose during usual course of events.
- No Compensation for Remote / Indirect Loss

SPECIAL

- Arises on previous notice of special circumstances affecting contract

VINDICTIVE / EXEMPLARY

- Breach of Promise to marry
- Wrongful dishonour of cheque by Bank

NOMINAL

- No real damage suffered
- Establishes Right to decree

DETERIORATION CAUSED BY DELAY

- Damages recovered even without Notice

PRE - FIXED DAMAGES

- Sum to be paid for breach → mentioned in contract

LIQUIDATED DAMAGES / PENALTY

- Reasonable Compensation
- Genuine Pre estimate
- Not exceeding sum mentioned

- Exorbitant amount
- Create terror
- Sum payable in excess of Damage

RECISSION OF CONTRACT

- Contract broken
- Other party may rescind contract
- Can claim compensation

SUIT FOR SPECIFIC PERFORMANCE

- Damages are not adequate remedy
- Court may direct to carry out promise as per terms of Contract

SUIT FOR INJUNCTION

- Party negates terms of contract
- Court → restrains from doing, what he promised not to do.

QUANTUM MERUIT

- As much as the party has deserved
- Recompensate for value of work done, where no remuneration fixed
- 2 Condition for application of Doctrine

Original contract discharged

Claim brought by party not in default

- Claim of Quantum Meruit in following cases —

Something done with No intention to do gratuitously

Void Agreement Contract becomes void

One party refuses to perform

Contract Divisible

Contract Indivisible

Pay for part performance enjoyed

- Performed badly but completely
- Deduction for bad work

CONTINGENT & QUASI CONTRACT

CONTINGENT CONTRACTS

SEC 31 Contract to do or not to do something, if some even, collateral to contract does or does not happen
 Example Contract of Insurance, Indemnity & Guarantee

* Collateral Event (Pollock & Mulla)

Even in which

- Neither performance promised
- Nor consideration for a promise

ESSENTIALS OF CONTINGENT CONTRACT

Performance

- Depends on Happening / Non-Happening of event

Collateral Event

- Neither performance promised
- Non consideration

Not mere will of Promisor

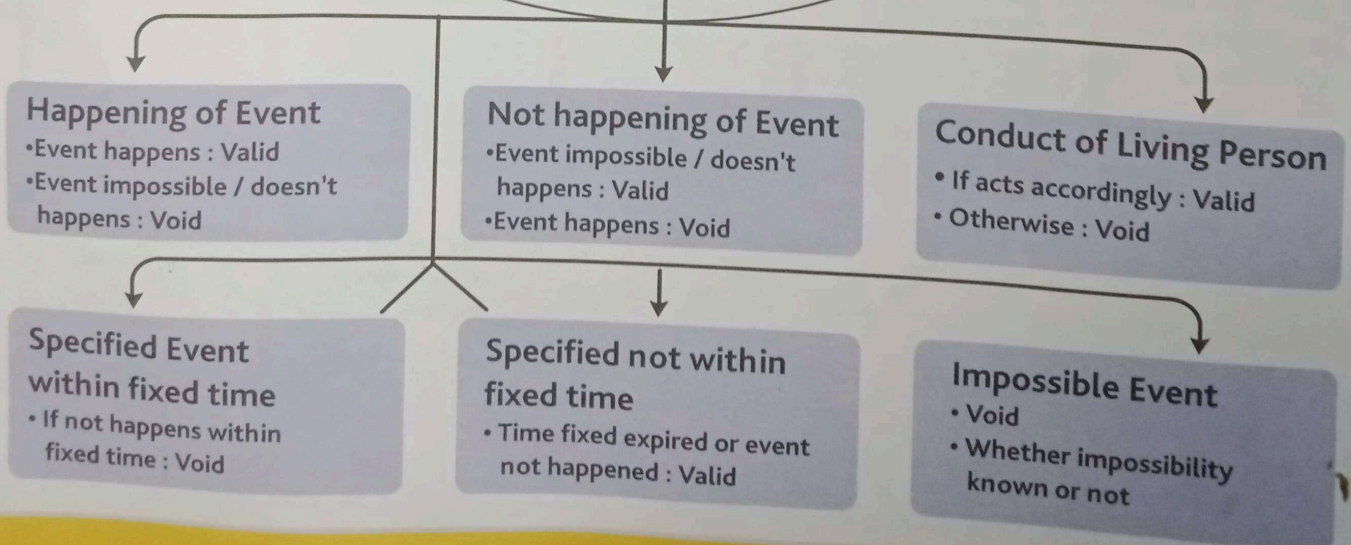
- Contingent event must exist
- Not just will of promisor

Uncertain Event

- Event certain
- ↓
- Non contingent contract

RULES RELATING TO ENFORCEMENT [Sec 32 - 36]

Contract dependent on



QUASI CONTRACTS

Not an actual Contract

Resembles a Contract

Also known as Constructive Contracts

Law imposes obligations on parties

Based on Principle of Equity, Justice & good conscience

FEATURES

Always a right to money

Not arise by Agreement

Imposed by Law

Right available against particular person

CASES DEEMED AS QUASI CONTRACTS

Claim for Necessaries Supplied

- Necessaries supplied to Incompetent person
- Right to reimbursed from their property

Payment by Interested Person

- Interested person pays money
- Which another is bound to pay
- Entitled to be reimbursed

Money paid by Mistake / Coercion

- Money paid / goods delivered by mistake, coercion, oppression or extortion.
- Must Repay / Return

Obligation of person enjoying Non Gratuitous Act

- Lawfully does something
- No intention to act gratuitously
- Person enjoying benefit → Bound to pay

Responsibility of finder of goods

- Take care of property
- No right to appropriate goods
- Restore goods if owner found
- Responsibility same as Bailee