

Chapter - 2

Consideration

(Quid pro quo)
(Something in return)

What is Consideration ?

[Sec 2 (d)]

- When at the desire of the **PROMISOR**
- The promisee **OR** any other person
- Has done **OR** abstained from doing (**PAST**)
- Does **OR** abstains from doing (**PRESENT**)
- Promises to do **OR** abstains from doing (**FUTURE**)
Something
- 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
- Consideration must be at the desire of the promisee.
- Consideration may move from promisee or any other person.
- Consideration may be - Past, Present, Future.

CONSIDERATION :-

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

Legal Rules Regarding Consideration :-

1. Consideration must move at the desire of the promisee :-

Consideration must be offered by the promisee OR
The third party at the desire or request
of the promisee

- This implies 'return'

Element of Consideration

An act done at the desire of 3rd party } Not a
desire of 3rd party } 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.

(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 do something such an act is consideration.

Case Law :-

Old lady (Promisor) → Daughter (Promisee)
↓
Gift of her property

Daughter (Promisor) → Maternal uncle (Promisee)
↓
To pay a certain amount of money

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

(ii) Executed and executory consideration

↓
Consist in
performance of
an act

↓

consist in promises.

Liiv) Consideration may be past, present or future:—

has done /
abstained from doing

7- Doctrine of past consideration (Sec 2(d))

Past consideration must move by previous requests.

(v) Consideration needs not to be adequate :-

Must be equal to value of thing promised to be exchanged.

CONSIDERATION -

→ Or the thing exchanged will be lawful.

Explanation of its states :-

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

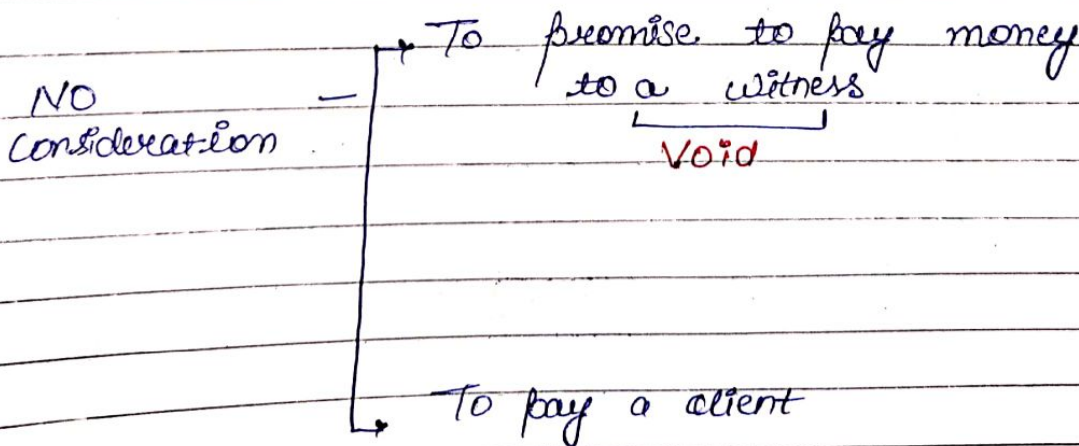
But if it's shockingly less

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 :-



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

Validity of an agreement without consideration:—

[Sec 25- Agreement without consideration is void.]

Exceptions to 'No consideration, NO contract' are 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:—

Services - Voluntary

Exceptions of this doctrine is below :-

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

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 successors 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.

Validity of an agreement without consideration:—

[Sec 25- Agreement without consideration is void.]

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Sec 25 (1)

2. Compensation for past Voluntary Services:—

Services - Voluntary

Services rendered, for promisee
promisee must be in existence when services rendered
promisee 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 gifts.

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 Mohammad (1886)

- Town - hall Construction
- By Commissioner of Hawrah municipality :
Subscription is invited.
- The defendant was a subscriber to this fund of Rs 100, on the faith of promised contract, the plaintiff.
Vice chairman of municipality

(Desire - Defendant's
Desire)

entered into a contract with a contractor,
was done at the desire of the defendant
[promisor].

Constitute consideration

[Valid].