



THIRUTHANGAL NADAR COLLEGE

(Belongs to the Chennaivazh Thiruthangal Hindu Nadar Uravinmurai Dharma Fund)

Selavayal, Chennai-51.

A Self-Financing Co-educational College of Arts & Science

Affiliated to the University of Madras

Accredited with 'B' Grade by NAAC

An ISO 9001: 2015 Certified Institution

NAME OF THE DEPARTMENT: COMMERCE

SUBJECT : BUSINESS LAW

TOPIC : ESSENTIALS OF A VALID CONTRACT

STAFF NAME : DR. C. STALIN SHELLY



COURSE OUTCOME (CO-2)

"To enable the students to understand the Legal Remedies available in the Law to the Business and other People."

Types of offer

1. **Express offer:** spoken or written
2. **Implied offer:** understood from the contract
3. **Specific offer:** made to a specific person
4. **General offer:** made to the world (Carlill vs. Carbolic Smoke Ball Company)
5. **Cross offer:** identical offer
6. **Counter offer:** offeror desires modification
7. **Standing offer:** continuous

Legal rules relating to offer

1. Create legal relationship
2. Terms must be clear and certain
3. Declaration of intention by one person to another does not constitute a valid offer
4. An invitation to offer is different from a valid offer.
5. Offer must be communicated
6. It must not contain a term the compliance to which would amount to acceptance
7. Mere statement of price does not constitute an offer to sell

Legal rules regarding acceptance

1. Acceptance must be absolute and unqualified
2. Mere mental acceptance is not enough
3. Acceptance must be given according to the prescribed mode
4. Acceptance must be given within the time specified in the offer
5. Acceptance must be given only by the person to whom the offer is made or by an authorized person that too officially
6. Acceptance must be conveyed only to the offeror or a person authorized by him

When will an offer lapse?

1. By a notice of revocation (revocation = withdrawal)
2. By the lapse of time
3. By the failure of the acceptor to fulfill a condition to acceptance
4. By the death or insanity of the proposer
5. By a counter offer
6. By the offeree not giving his acceptance as per the prescribed mode
7. By change of law or destruction of the subject matter
8. By the rejection of the offer by the offeree

Legal rules regarding consideration

1. Consideration must always be provided at the desire of the promisor
2. It may be provided by the promisee or any other person
3. It may be an act of abstinence (abstinence = not doing something)
4. It may be past, present or future
5. A promise by which the promisor does not gain anything in return is not enforceable

Legal rules regarding consideration

6. Where the promisee has incurred a liability on the strength of the promise made by the promisor he can sue
7. It need not be adequate
8. It must be real and not illusory (illusory = not real)
9. It must be something which the promisor is not already bound to do under law
10. The act constituting consideration must not be illegal, immoral or opposed to public policy

Exception to the rule 'contract without consideration void'

1. Love and affection
2. Compensation for voluntary services
3. Promise to pay a time barred debt
4. Completed gift
5. No consideration is necessary to create an agency
6. Guarantee by a surety

Stranger

1. A person who is not a party to a contract

Exception:

- a) In case of trust
- b) Family arrangement
- c) Acknowledgement
- d) An assignee can enforce
- e) The principal can enforce a contract made by his agent
- f) Condition attached to immovable property

Consent

- ▶ a. Willingness
- ▶ b. Two or more persons are said to consent when they agree upon the same thing in the same sense (Sec. 13)

Free consent

Consent not obtained by

1. **Coercion:** Compel or force
 - a) Committing or threatening to commit any act forbidden by the Indian Penal Code, 1860
 - b) Unlawful detaining or threatening to detain any property
 - c) **Effect:** Voidable at the option of party
2. **Undue influence:** Taking advantage of one's position (Master-servant, Doctor-patient)
 - a) **Effect:** Voidable at the option of party

Free consent

3. **Fraud:** False representation deliberately
 - a) There must be a representation or assertion
 - b) Representation must be a fact
 - c) Honestly believe it is true
 - d) Intention is not to deceive the other party
 - e) Other party must have suffered a loss

Free consent

4. **Misrepresentation:** False representation without any intention
 - a) There must be a false representation or assertion
 - b) Representation must be a fact
 - c) Deceived the other party
 - d) Other party must have suffered a loss
 - e) Knowledge of falsity

Free consent

5. **Mistake:** Incorrect idea or opinion about something

a) Mistake of law

- i. Mistake of Indian Law: Every citizen of India is expected to be familiar with Indian law (Ignorantia juris non excusat – Ignorance of law is no excuse). Hence it is not voidable
 - ▶ Eg: A, an illiterate, has taxable income. He fails to comply with the provisions of the Income-tax Act. He is liable for legal action under the Act.
- ii. Mistake of Foreign Law: A citizen of India is not expected to be familiar with the law of a foreign country. Hence it is Void.

Free consent

a) **Mistake of fact:** Mistake of Foreign Law

i. **Bilateral mistake:** Both the parties are under a mistake

▶ Mistake as to subject matter

- a) Existence of subject matter
- b) Identity of subject matter
- c) Quality of subject matter
- d) Quantity of subject matter
- e) Title of the subject matter
- f) Price of the subject matter

▶ Mistake as to possibility of performance

- a) Physical impossibility
- b) Legal impossibility

ii. **Unilateral mistake:** One party is under a mistake – not voidable

a) **Exceptions:**

- b) Identity of the person contracted with
- c) Nature of contract

Unlawful agreement

- ▶ Not lawful
 - ▶ Agreement is forbidden by law
 - ▶ Defeats provision of any law
 - ▶ Fraudulent
 - ▶ Injury to any person or harm to any property
 - ▶ Immoral
 - ▶ Opposed to public policy

Illegal agreement

1. Crime
2. Violate basic public policy
3. Immoral

Agreement opposed to public policy

- ▶ Agreement with an alien enemy
- ▶ Agreement to stifle prosecution: stifle-prevent
- ▶ Maintenance and champerty
 - ▶ Maintenance: One party agrees to assist another to bring legal action against someone
 - ▶ Champerty: One party agrees to assist another to bring legal action for recovering money and property and also to share the proceeds
- ▶ Sale or transfer of public offices and titles
- ▶ Interest opposed to duty
- ▶ Denial of parental rights
- ▶ Restriction of one's personal liberty
- ▶ Marriage brokerage
- ▶ Payment of dowry
- ▶ Agreement of restraint of marriage

THANK YOU