



THIRUTHANGAL NADAR COLLEGE

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Selavayal, Chennai-51.

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

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NAME OF THE DEPARTMENT: B.COM (CA)

SUBJECT :BUSINESS LAW

TOPIC : UNIT-III

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Other elements of valid contract – capacity of parties- definition- persons competent to contract .free consent – coercion – undue influence – fraud – misrepresentation – mistake. Legality of object – void agreements – unlawful agreements.

Capacity of Parties

- For a valid contract, the parties to a contract must have capacity i.e. competence to enter into a contract. Every person is presumed to have capacity to contract but there are certain persons whose age, condition or status renders them incapable of binding themselves by a contract. Incapacity must be proved by the party claiming the benefit of it and until proved the ordinary presumptions remains.

Section 11 of the Contract Act deals with the competency of parties and provides that "every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind and is not disqualified from contracting by any law to which he is subject."

Capacity of parties -**Definition**

- Capacity of parties refers to each party who is entering a contract. Each is required by law to have the mental and intellectual capacity to understand the terms of the contract and to make the decision to enter it. Therefore, people such as minors, those of reduced mental acuity, and people under the influence of drugs or alcohol would not legally meet the capacity required to enter into an insurance contract.

competent to contract

- **Section 11 in The Indian Contract Act, 1872**
- competent to contract.—Every person is competent to contract who is of the age of majority according to the law to which he is subject,¹ and who is of sound mind and is not disqualified from contracting by any law to which he is subject. —Every person is competent to contract who is of the age of majority according to the law to which he is subject,¹ and who is of sound mind and is not disqualified from contracting by any law to which he is subject."

Free consent

- Consent means to agree to something. Free consent means to agree without coercion without being forced or threatened. It is essential to the creation of a contract that both parties agree to the same thing in the same sense. When two or more persons agree upon same thing , they are said to consent.

Free consent Example:-

- Example:- A agrees to sell his Fiat car 1983 model for rupees 80000. B agrees to buy the same .there is a valid contract since A and B have consented to the same subject matter. 2) A, who owns three Fiat cars, offers to sell one, say “car x”, to B for rupees 90000 . B agrees to buy the car for price thinking that A is selling “car Y”. There is no consent and hence no contract . A and B have agreed not to the same thing but to different things.

Coercion

- Coercion is
- (i) The committing or threatening to commit any act forbidden by Indian Penal Code
- (ii) The unlawful detaining or threatening to detain, any property to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement

Undue influence

- Undue influence is the improper use of any power possessed over the mind of the contracting party. According to section 16 a contract is said to be affected by undue influence when: The relations subsisting between the parties are such that one of the parties is in a position to dominate the will of other and uses that position to obtain an unfair advantage over the other.

Fraud(Section 17)

- Misrepresentation of facts may be intentional or innocent. Intentional misrepresentation has been termed as Fraud and innocent misrepresentation has been termed simply as „misrepresentation“ in the contract act.

Misrepresentation(Section 18)

- Misrepresentation is a false representation made innocently without any intention of deceiving the other party .It may include two things: (a) wrong statement of a material fact not known to be false (b) Non-disclosure of facts where there is a legal duty to disclose without intention to deceive.

Example

- Example:- X entered into contract with C for the sale of hops. X told Y that no sulphur has been used in their growth. Y agrees to buy only if no sulphur has been used for their growth. As a matter of fact, sulphur has been used in 5 out of 100 acres which fact was evidently forgotten by X when represented that no sulphur was used.

mistake

- The term mistake is used in contract law to describe a situation in which one or both parties to an agreement acted under an untrue belief about the existence or nonexistence of a material fact.” Essentials
The following conditions must be fulfilled; 1. There must be a mistake as to the formation of the contract. 2. It must be mistake of fact. 3. It must be about a fact essential to the agreement.

Legality of Object

- **Legality of Object**

Section 23 of the Indian Contract Act has specified certain considerations and objects as unlawful. The consideration or objects of an agreement is lawful, unless- it is forbidden by law; is of such a nature that, if permitted, it would defeat the provision of any law; or is fraudulent; or involves injury to the person or property of another; or the court regards it as immoral or opposed to public policy.

In each of the above mentioned cases the consideration or object of an agreement is deemed to be unlawful. Every agreement in which the object or consideration is unlawful is void.

Void agreement

- A **void contract** is a **contract** that isn't legally enforceable, starting from the time it was created. While both a **void** and **voidable contract** are null, a **void contract** cannot be ratified. In a **legal** sense, a **void contract** is treated as if it was never created and becomes unenforceable in court.

Unlawful

- It is **an agreement that the law will not help enforce**, if one of the parties claims the other breached their agreement. The reason is that it is an agreement to do an unlawful thing — either a crime or a tort — by one or both of the parties.
- The law exists to help parties who show their respect for the law enforce their legal rights, not to help illegal racketeers enforce their drug deals or usurious loans or whatever. There are no *legal* rights to enforce such a contract.
- Parties who are in the business of making unlawful agreements generally have their own, equally extralegal and unlawful, methods of enforcing them. (Breaking the legs of a deadbeat, for instance.)