

Paper Name: CONTRACT LAW-I
Mid Term Online Examination
Fall - 2021

(Main Campus)

Faculty of LAW
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Exam Date: 31-12-2021
Time:
Marks: 30

ALL QUESTIONS CONTAIN EQUAL MARKS

1. Briefly describe any five of the leading cases of Contract Law along with the rule which enunciated in a separate heading. (10)
2. What are the rights and duties of Buyer and Seller. (10)
3. What do you understand by Fraud and Misrepresentation. Explain briefly and precisely in your own words (NO LENGTHY DESCRIPTION REQUIRED) (10)

Q.1 Briefly describe any five of the leading cases of Contract Law along with the rule which enunciated in a separate heading.

Ans:

Acceptance should be communicated: Felt house v. Bindley

In this case, the petitioner, Mr. Paul Felt house wanted to purchase a horse from his nephew, but the price he offered to pay for the horse was less than that his nephew was willing to sell it for. The horse, therefore, was still in his possession. The Uncle communicated his offer through a letter, saying, "If I hear no more about him, I consider the horse mine at £30.15s" The nephew could not respond to the letter because he was busy with an auction on his farm. Though he asked the auctioneer, Mr. Bindley, not to auction the horses, he accidentally did. Mr. Felt house then sued the defendant for conversion of his property. The defendant argued that the horse was not actually Mr. Felt house's property, as there existed no contract between him and his nephew at the time of the auction because Mr. Felt house's offer was not accepted by his nephew and the nephew's silence cannot be considered to be an acceptance of the offer. It was held that Mr. Felt house did not have the ownership of the horse at the time of the auction, which is why he could not sue for conversion, as the offer he made was not actually accepted.

Minor's Capacity to Contract: Mohori Bibee v. Damodar Ghose

In this case, the defendant, Darmodar Ghose, as a minor was the sole owner of his property. His mother was his legally appointed guardian. One Mr. Brahma Dutt who was a moneylender, through his agent Kedar Nath, lent Damodar Ghose a sum of Rs 20,000 at 12% interest per year. The loan was taken by way of mortgaging the property. The same day this deal was made, Damodar Ghose's mother notified the appellant that Damodar was a minor, and anybody who would get into an agreement with him would do so at his own risk. Kedar Nath claimed that Damodar Ghose had lied about his age on the date of the execution of this deed, which turned out to be untrue. Therefore, Brahma Dutt's appeal was dismissed and his request for the return of Rs 10,500 advanced towards him was also rejected. It was held that a minor's agreement is void ab initio.

Agreement, Not Contract: Balfour v. Balfour :

In this case, Mr. and Mrs. Balfour, who used to live together as a married couple in Sri Lanka, went for a vacation to England. During this time, Mrs. Balfour developed rheumatic arthritis. The doctor advised Mrs. Balfour to stay back in England as, according to him, Sri Lankan climate would worsen her health. Before Mr. Balfour returned to Sri Lanka, he promised to send £30 to her per month. During their stay away, the parties drifted apart and separated. It was held in this case that Mr. Balfour's promise to pay a monthly sum of £30 did not amount to a contract, as there was no intention to create a legal relationship on part of either of the parties.

General Offer: Carlill v. Carbolic Smoke Balls Company

In this case, a company carried out advertisements about their product, carbolic smoke balls, that claimed that any person who took the smoke balls in the prescribed manner (i.e., three times daily for two weeks) will not catch influenza. In case someone does, the company

promised to pay 100£ to them immediately. To show their sincerity regarding this offer, the company deposited a sum of 1000£ in a public bank. Now, the plaintiff, Carlill bought the smoke balls and used them as prescribed in the advertisement, but still ended up catching the flu. She filed a suit for the recovery of 100£ as promised in the advertisement. The company denied the payment saying there existed no contract between them and the plaintiff. It was held that a contract came into existence between the plaintiff and the company as soon as the plaintiff bought the smoke balls and used them as prescribed.

Doctrine of Frustration: Krell v. Henry

In this case, the defendant agreed to rent a flat of the plaintiff to watch the coronation of King Edward VII from its balcony. The plaintiff had promised that the view from the flat's balcony will be satisfying since the procession will be perfectly visible from the room. The parties corresponded through letters and agreed on a price of £75 for two days. Nowhere in their written correspondence did the parties mention the coronation ceremony. The coronation did not take place on the days the flat was booked for, as the king fell ill. The defendant refused to pay the whole sum of money that the parties had agreed upon, for this reason. It was held that it could be inferred from the circumstances surrounding the contract what the implied purpose behind the contract was. Due to the cancellation of the procession, the purpose of booking the flat was frustrated.

Q.2 What are the rights and duties of Buyer and Seller.

Rights and Duties of Buyer:

- **He has the right to have delivery of the goods as per the contract.**
- **If the seller does not send, as per the contract, the right quantity of goods to the buyer, the buyer can reject the goods.**
- **The buyer has a right not to accept delivery of the goods by installments by the seller.**
- **If the goods are sent by sea route by the seller, the buyer has a right to be informed by the seller so that he may get the goods insured.**
- **The buyer has a right to examine the goods which he has not seen earlier before giving his acceptance for the same.**
- **If the seller wrongfully refuses to deliver the goods to the buyer as per the contract, the buyer may sue the seller for damages for non delivery. The amount of damages will be the difference between the contract price and the market price of the goods.**

- If the buyer has already paid the price and the seller has not delivered the goods as per the contract, the buyer can recover the amount paid.
- If the contract is for the sale of specific or ascertained goods, the buyer may sue the seller for the specific performance of the contract in case of breach of contract by the latter.
- The buyer may sue the seller for damages for the breach of any implied warranty as per the provisions of this Act.

Rights And Duties of Seller:

- To disclose all material defects to the potential buyers of the property, which they may not be aware of and may not be able to recognise in the regular course of action. A material defect is an issue within a component or system of a residential property that may have an adverse impact on the value of the concerned property, or that poses an unreasonable risk to the resident, such as temporarily-hidden seepage issues of a significant nature, unstable foundation of the building, etc.
- To show to the buyer, on his/her request, all such documents of title which are relevant to the property, and which are in your possession or in your power to access and show.
- To answer to the best of your knowledge all the genuine and applicable questions asked by the buyer regarding the property or its title.
- To enter into a contract with the buyer which states that the interest in the property, which you intend to transfer to the buyer, shall continue to remain so after the transfer. Also, the buyer would take over the authority to transfer the property to someone else, as desired.
- To pay and clear all governmental charges (property tax) or other encumbrances accrued (home loan, among others) on the property up to the date of sale.
- To take proper care of the property and all relevant documents of title between the date of the contract of sale and the delivery of the possession of the property.

Q.3 What do you understand by Fraud and Misrepresentation. Explain briefly and precisely in your own words (NO LENGTHY DESCRIPTION REQUIRED)

Definition of Fraud:

A false representation willfully made by a party to contract in order to mislead the other party and inducing him to enter into the contract is known as fraud.

The party making false representation has made it either knowingly or negligently just to deceive the other party. The aggrieved party, relied on the statement, believing it to be true and acted upon it, which became a cause of loss to the aggrieved party. In addition to this, the representation of the fact must be made before the conclusion of the contract. Concealment of a material fact in a contract also amounts to fraud, but mere silence does not amount to fraud except where the silence is equivalent to speech or where it is the duty of the person making the statement to speak.

Now the contract is voidable at the option of the aggrieved party, i.e., he has the right to perform or terminate the contract. Apart from that, any damages suffered by the injured party can also be claimed as well as he can sue the other party in court.

Example: A purchased goods of Rs. 5000 from a shopkeeper B, with the intent of not paying the money to B, this type of act amounts to Fraud.

Definition of Misrepresentation

A representation of a material fact made by a party to contract who believes it to be true, the other party relied on the statement, entered into the contract and acted upon it which later on turned out to be incorrect is known as misrepresentation. The representation is made unintentionally and unknowingly, not to deceive the other party but it became a reason of loss to the other party.

Now, the contract is voidable at the option of the injured party who has the right to avoid his performance. Although, if the truth of the material fact can be discovered by the aggrieved party in the normal course, then the contract is not voidable