



“बेटी बचाओ, बेटी पढ़ाओ”

JAYOTI VIDYAPEETH WOMEN'S UNIVERSITY, JAIPUR

(Format for Preparing E Notes)

Faculty of Law and Governance

Faculty Name- JV'n Ms. Pratibha

Program- LLB, Semester 1st

Course Name - Contract

Session No. & Name – 2023-24

Academic Day starts with –

Greeting with saying ‘Namaste’ by joining Hands together following by 2-3 Minutes Happy session, Celebrating birthday of any student of respective class and National Anthem.

Lecture Starts with-

Review of previous Session

National song’ **Vande Mataram’**

Subject Name – **Contract**

Topic - **Void Contract and voidable contract’.**

Section 2 (j) of the Indian Contract Act, 1872 defines Void Contract as a contract that no longer remains a valid contract and cannot be enforced in the court of law. Such contracts do not have any legal effect and cannot be enforced by either party.

Section 2(i) of the Indian contract act 1872, states that ‘An agreement which is enforceable by law at the option of one or more parties but not at the option of the other is a voidable contract’. Thus, a voidable contract would be one which can be avoided by one of the parties to the contract at his option

Meaning of Valid Contract: – A Valid Contract is an agreement that is legally binding and enforceable by law. It must qualify all the essentials of contract. In a valid contract, all the parties are legally bound to perform the contract. The Indian Contract Act, 1872 defines and lists the essentials of a valid contract through Interpretation and various judgements of the Indian judiciary.

The basic elements required for the agreement to be a legally enforceable contract are: mutual assent, expressed by a valid offer and acceptance; adequate consideration; capacity; and legality

What are Void Agreements?

Meaning of Void Agreements: – According to Section 2(g) of the Indian Contract Act, 1872, an agreement not enforceable by law is said to be void agreement. For instance, an agreement by a minor has been held to be void. Section 24-30 of the Indian Contract Act, 1872, makes specific mention of void agreements. Those agreements include an agreement without consideration, an agreement in restraint of marriage, and an agreement in restraint of trade.

A void agreement is defined under section 2(g) of Indian Contract Act, 1872, as an agreement which cannot be enforceable by law, i.e. such agreements cannot be challenged in the court of law. Such an agreement lacks legal consequences, and so, it does not confer any rights to the parties concerned. A void agreement is void from the day, it is created and can never turn into the contract.

To become enforceable, an agreement must adhere to, all the essentials of a valid contract, described under section 10 of the act. Thus, in the case of non-compliance of any one or more, essentials of a contract, during its creation, the agreement becomes void.

Some agreements which are expressly declared as void, include: –

Agreement with incompetent parties, such as minor, lunatic, alien enemy.

Agreement whose consideration or object is unlawful.

The agreement which restricts a person from marrying.

An agreement where both parties are under the mistake of fact, material to the agreement.

The agreement which restricts trade.

Wagering agreements, etc.

For Example: – ‘A’ agrees to pay Rs 10,000 to ‘B’ after 5 years against a loan of Rs. 8,000. ‘A’ dies due to natural causes in 4 years, hence the contract is no longer valid and becomes void due to the enforceability of the agreed terms.

What is a Void Contract?

Meaning of Void Contract: – A void contract is a contract which is not enforceable in the court of law. At the time of formation of the contract, the contract is valid as it fulfills all the necessary conditions required to constitute a valid contract, i.e. free consent, capacity, consideration, a lawful object, etc. But due to a subsequent change in any law or impossibility of an act, which are beyond the imagination and control of the parties to the contract, the contract cannot be performed, and hence, it becomes void. Further, no party cannot sue the other party for the non-performance of the contract.

Section 2 (j) of the Indian Contract Act, 1872 defines Void Contract as a contract that no longer remains a valid contract and cannot be enforced in the court of law. Such contracts do not have any legal effect and cannot be enforced by either party. Sometimes an agreement which is enforceable by law, i.e, a contract, can become void.

Void contracts are valid, when they are entered into, as they conform to all the conditions of enforceability, laid down under section 10 of the act and are binding on the parties, but later on becomes void because of impossibility to perform.

Such contracts becomes unenforceable in the eyes of law due to: –

Supervening impossibility

Change of law

Subsequent Illegality

Repudiation of voidable contract

Contingent contract etc.

For example: – ‘A’ holds ‘B’ at gunpoint and asks her to sell him her house at an extremely low price, and ‘B’ does so accordingly, fearing for her life. In this situation, ‘B’ was coerced into an agreement by ‘A’, and thus her consent was not freely obtained. Therefore, the contract between ‘A’ and ‘B’ is a void contract and do not have any legal effect in the eyes of law.

What is a Voidable Contract?

Meaning of Voidable Contract: – An agreement which is enforceable by law at the option of one or more parties but not at the option of the other is a voidable contract. Thus, a voidable contract would be one which can be avoided by one of the parties to the contract at his option. If such a party does not avoid the contract, the contract remains valid, but if he prefers to avoid the contract, then the contract becomes voidable. These types of contracts are defined in section 2 (i) of the Indian Contract Act. Not all contracts are voidable; legal precedent must exist to absolve responsibility.

A voidable contract is initially considered legal and enforceable but can be rejected by one party if the contract is discovered to have defects. If a party with the power to reject the contract chooses not to reject the contract despite the defect, the contract remains valid and enforceable.

Most often, only one of the parties is adversely affected by agreeing to a voidable contract in which that party fails to recognize the misrepresentation or fraud made by the other party.

For example: – ‘A’ entered into contact with ‘B’ constructing a house for him where as ‘A’ particularly mentioned a condition to paint the house in white but ‘B’ negligently paint the house in some different color. So, here ‘A’ is at the option to declare the contract as void as his

condition against the 'B' not being fulfilled or accepts the house as it is and validates the contract.

What are illegal contract?

Meaning of illegal contract: – An agreement that allows one or all parties to break the law or not conform to the norms of society is considered illegal by the court. A contract opposed to public policy is also illegal. Several examples may be cited to indicate an illegal contract. For example, 'A' agrees to sell narcotics to 'B'. Although this contract has all the necessary elements of a valid contract, it is still illegal.

Illegal contracts are considered void and are not enforced by law. As stated in section 2(g) of the Act: – “Agreement not enforced by law is called void.”

Thus we can say that all illegal contracts are void, but not all Contracts are illegal. Both void contracts and illegal contracts cannot be enforced by law. Illegal contracts have zero beginning (from the beginning they are void).

Also due to the criminal aspects of illegal contracts, they are punishable under the law. All parties agreeing on an illegal promise are prosecuted in a court of law.

What are unenforceable contracts?

Unenforceable contracts are considered as unenforceable by law due to some technical issues or natural disaster. The contract cannot be enforced against any of the two parties.

For example: – 'A' agrees to 'B' to sell 100 kg's of rice for 10,000 /-. But there was heavy flooding in the states and all the rice crops were destroyed. Now, this contract is voidable and cannot be enforced against either party.

What is the difference between Void Contract and Voidable Contract?

The major differences between void contract and voidable contract are as under: –

A contract which lacks enforceability is Void Contract. A contract which lacks the free will of one of the parties to the contract is known as Voidable Contract.

Void Contract is defined in section 2 (j) while Voidable Contract is defined in Section 2 (i) of the Indian Contract Act, 1872.

A void contract was valid at the time when it is created, but later on, it becomes invalid. Conversely, the voidable contract is valid until the aggrieved party does not revoke it within stipulated time.

When it is impossible, for an act to be performed by the parties, it becomes void, as it ceases its enforceability. When the consent of the parties to the contract is not free, the contract becomes voidable at the option of the party whose consent is not free.

In void contract, no party can claim any damages for the non-performance of the contract. On the other hand, the aggrieved party can claim damages for any loss sustained.