Facultative Obligation

Is an obligation where only one prestation is due but the debtor may render another in substitution.

Explanation:

It is an obligation where only one prestation is due, but the debtor may render another in substitution.

In this obligation, the right of choice is only in debtor to give a substitute thing.

Special provision

Article 1206

When only one prestation has been agreed upon, but the obligor may render another in substitution, the obligation is called facultative.

Explanation:

According to the civil code article 1206, the obligation is called facultative, when only one prestation or object of the obligation has been due, that agreed upon between two parties, but in agreement the obligor may render or deliver another in substitution.

The loss or deterioration of the thing intended as a substitute, through negligence of the obligor, does not render him liable. But once the substitution has been made, the obligor is liable for the loss of the substitute on account of his delay, negligence, or fraud.

**NOTE:**

**Before the substitution – before the debtor has informed the creditor of the or about the substitution.**

**After the substitution – the debtor already informed the creditor that he will render or deliver the substitute.**

Explanation:

PRINCIPAL THING

If the principal thing is lost due to fault or negligence before the substitution has been made, the debtor is liable to damages.

While, if the principal thing is lost due to fault or negligence after the substitution has been made, the debtor is not liable to damages.

SUBSTITUTE THING

If the substitute thing is lost due to fault or negligence before the substitution has been made, the debtor is not liable to damages.

While, if the substitute thing is lost due to fault or negligence after the substitution has been made, the debtor is liable to damages.

PRINCIPAL AND SUBSTITUTE THING IN FURTUITOUS EVENT

If the principal or substitute thing is lost due to fortuitous event, the debtor is not liable to damages.

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| --- | --- | --- | --- |
| PRINCIPAL THING | Before the substitution | Lost due to fault or negligence | Liable to damages |
| After the substitution | Lost due to fault or negligence | Not liable to damages |

|  |  |  |  |
| --- | --- | --- | --- |
| SUBSTITUTE THING | Before the substitution | Lost due to fault or negligence | Not liable to damages |
| After the substitution | Lost due to fault or negligence | Not liable to damages |

|  |  |  |
| --- | --- | --- |
| Principal thing | FURTUITOUS EVENT | Not liable to damages |
| Substitute thing |

SCENARIO:

Danny is obliged to give specific ring to Cassie with the agreement that Danny may deliver a specific watch as a substitute.

Prestation:

Giving of specific ring (principal thing)

Giving of specific watch (substitute thing)

Explanation:

In this obligation, only the specific ring is due since it is the facultative obligation. (and let’s assume that it is before the substitution) The specific watch is not included since based on the agreement; the specific watch is only a substitute.

So, if he lost the specific ring due to fault or negligence, Danny will be liable to damages. Because the facultative obligation in this example is giving specific ring.

Then, if he lost the specific watch due to fault or negligence, Danny is not liable to damages. Because it is only the substitute thing.