

Chapter I: Contracts

Consideration, capacity , contract
formalities

Consideration: 1. legal value Bargained-for Exchange

- **Definition:**

- the **value** (such as cash) given in return for a **promise or** in return for a **performance or the refraining from an action**
- ***Intention to be legally bound (exchange of promises)***
- = excluding social & domestic arrangements.***

Was there a Contract?

- Roberto says to his son, “In consideration of the fact that you are not as wealthy as your brothers, I will pay you \$5,000 per month.” Two years passed and Roberto stopped payment. The son sued his father for breach of contract.
- Roberto says to his son, “ if he would refrain from drinking, using tobacco, and playing cards or billiards for money until he reached the age of twenty-one, I will pay you \$5,000.” The son agreed and fully performed his part of the bargain. When he reached the age of twenty-one, he wrote and told his dad that he had kept his part of the agreement and was therefore entitled to \$5,000. The father claimed that there had been no valid consideration for the promise and therefore refused to pay the \$5,000.

Answer

- this is not an enforceable promise because the son does not need to give Roberto something of legal value in return for his promise, there is no legal value bargained-for exchange. Rather, Roberto has simply stated his motive for giving his son a gift.
- The son had provided legally sufficient consideration by giving up smoking, drinking, and playing cards or billiards for money until he reached the age of twenty-one and was therefore entitled to the funds . There was a valid contract .

Consideration: 2. *Features*

- ***Sufficient***: the **exchange** of promises and potential benefits is **deemed sufficient** as consideration.
- ***Not Adequate??*** : the determination of whether consideration exists does **not depend** on a **comparison of the values of the things exchanged**.
- **No consideration for Preexisting Duty** : a promise **to do what one already** has a legal duty to do does **not** constitute legally sufficient consideration(**except unforeseen difficulties**)
- ***Not In The Past*** : Promises made in **return** for **actions** or events that have already taken place (**in the past**) are **unenforceable**.

Was there a contract?

- D & C Builders, a small building company, had completed some work for Mr Rees for which he owed the company \$400. For months the company, which was in severe financial difficulties, pressed for payment. Eventually, Mrs Rees, who had become aware of the company's problems, contacted the company and offered \$300 in full settlement. She added that if the company refused this offer, it would get nothing. The company reluctantly accepted a cheque for \$300 'in completion of the account'. The company later sued for the balance.

Answer

- The second contract with the new fees is not valid because there is no consideration for preexisting duties.
- In the present case, both parties agreed to specific fees for the service awarded then one of them wants to exploit the other party need for the money so he reduced what is required to be paid and the other party under such circumstances accepted. In this case , the new contract based on the new price is void because there no new consideration.. no new exchange of benefits but same promises and no legal reason to decrease the payment unless the exploitation of the other contractor. So, even if the innocent party accepted such decrease it is allowed to sue that party for the full payment because there is no consideration for preexisting duties(past duties) the consideration should be exchanged on same time of making the contract with the offer and the acceptance not after and not before..

Contractual Capacity: Can Minors/Drunks/Mental Patients Make Contracts?

Minors

Minors contractual capacity : Minors Right To Disaffirmation

- **contract** entered into by a minor are **voidable** *In whole not in part* at the **option** of that **minor**, **subject to** an additional duty on the **minor to restore the adult** party to the position she or he held before the contract was made .
- A contract can ordinarily be **disaffirmed** at **any time during minority** *or* for a **reasonable period after reaching majority**.
- An **adult** who enters into a contract with a minor **cannot avoid** his or her **contractual duties on the ground that the minor can do so**.

What do you think legally?

- Sixteen-year-old Joseph Dodson bought a pickup truck from a used-car dealer. Although the truck developed mechanical problems nine months later, Dodson continued to drive it until it stopped running altogether. Then Dodson disaffirmed the contract and attempted to return the truck to the dealer for a full refund. The dealer refused to accept the pickup or refund the purchase price. Dodson filed a suit.

Answer

- Dodson is allowed to disaffirm the contract but he is required to compensate the seller for the depreciated value—not the purchase price—of the pickup.

Minors contractual capacity :No Right To Disaffirmation

1. **Misrepresentation of Age**
2. **Ratification** (expressly or impliedly) on majority by the minor.
 - **ratification** is the act of **accepting** and giving legal force to an obligation that previously was not enforceable.

CAN DRUNKS/MENTAL PATIENTS MAKE
CONTRACTS?

CAN DRUNKS MAKE CONTRACTS?

RULE:

- **Intoxication :No liability on the drunk if he proved that**
 1. he **did not understand** what the contract was about and
 2. the other person was aware of his disability

EXCEPTION:

- **No liability on the drunk unless the contract is ratified by him.**

CAN MENTAL PATIENTS MAKE CONTRACTS?

- **Mental Incompetence :**

1. THE CONTRACT WILL BE **VOID** If a **court has previously determined** that a **person is mentally incompetent** and has appointed a **guardian to represent** the individual, any contract made by the mentally incompetent person is void.
2. THE CONTRACT WILL BE **VOIDABLE** If a court **has not previously judged** a person to be mentally incompetent but **in fact the person was incompetent** at the time the contract was formed, the contract may be voidable
3. THE CONTRACT WILL BE **VALID** If **a court has not declared** a person mentally incompetent and that person was able to understand the nature and effect of the contract at the time it was formed.

Contract Formalities

Contract Formalities

- **Principle: No Formalities**
- **Not needed** in a contract (**Written** document, **Reading** the contract ,**understanding** the contract , a **signature**, **fair & reasonable terms**)
- **Exception: written**
 1. **deeds** (rent or sale of property) must be **under seal**, signature, witness , delivery
 2. **consumer credit agreement, marine insurance agreement, bills of exchange..**