

# Chapter I: Contracts

Termination Of Contracts :  
*DISCHARGE/ INVALIDITY*

# Termination Of Contracts : DISCHARGE

Discharge By: 1. **Performance**

# Types of Performance

1. **Complete Performance** : When a party performs **exactly** as agreed

2. **Substantial Performance**: When the **defect** in performance is **Unimportant** .

3. **Performance to The Satisfaction Of Another:**

- When the Contract Is Personal : Performance must actually **satisfy that party**.
- to be performed only to the satisfaction of a **reasonable person**

Ex: “to the satisfaction of Robert Ames, the supervising engineer”

**Discharge By: 2. Agreement**

# Types of Discharge by Agreements:

## 1. Discharge by Rescission / Novation

- Rescission is the process by which a contract is canceled or terminated and the **parties** are **returned to the positions** they occupied **prior** to forming it.
- Novation when both of the parties to a contract agree to **substitute a third party** for **one of the original parties**.

## Types of Discharge Agreements: 2. by Settlement / Accord Satisfaction

- Settlement Agreement :the two original parties to the contract form a **different agreement** to substitute for the original one.
- Accord and Satisfaction: the parties must agree to **accept performance that is different** from the performance originally promised.

# CASE

- Frazer has a judgment against Ling for \$8,000. Later, both parties agree that the judgment can be satisfied by Ling's transfer of his automobile to Frazer. Ling refuses to transfer the car, **Advise Frazer.**



# Answer

- This agreement to accept the auto in lieu of \$8,000 in cash is the accord. If Ling transfers the car to Frazer, the accord is fully performed, and the debt is discharged. If Ling refuses to transfer the car, the accord is breached. Because the original obligation is merely suspended, Frazer can sue Ling to enforce the original judgment for \$8,000

**Discharge By: 3. Operation of Law**

# Discharge By: 3. Operation of Law

- 1. Alteration of the Contract:** an innocent party can be discharged when the other **party** has **materially altered** a written **contract without consent**.
- 2. Bankruptcy :** A proceeding in bankruptcy attempts to allocate the debtors' assets to the creditors in a fair and equitable fashion.

# Discharge By: 3. Operation of Law

## 3. Impossibility of Performance

- *When one of the **parties** to a **personal contract** dies or becomes incapacitated prior to performance.*
- *When the specific **subject matter** of the contract is destroyed.*
- *When a **change in law** renders **performance illegal**.*

## 4. Impracticability of Performance

- *The **added burden of performance** not only must be **extreme** but also*
- ***must not have been known by the parties** when the contract was made.*

# *INVALIDITY OF CONTRACTS*

# CASES OF INVALIDITY OF CONTRACTS

- 1. Illegality .**
- 2. Mistake.**
- 3. Misrepresentation or fraud**
- 4. Duress and undue influence.**

# INVALIDITY FOR ILLEGALITY

- contract between drug dealer and buyers ,the buyers didn't pay the whole price of the drugs. Can the dealer go to the court to enforce the contract????

# **INVALIDITY FOR Mistake of Fact & Mistake Of value**



# **1.Mistake of Fact**

**MATERIAL  
MISTAKE  
OF FACT**

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graph LR; A[MATERIAL MISTAKE OF FACT] --> B[BILATERAL MISTAKE  
Both parties mistaken]; A --> C[UNILATERAL MISTAKE  
One party mistaken]; B --> D[CONTRACT CAN BE RESCINDED  
BY EITHER PARTY]; C --> E[CONTRACT ENFORCEABLE UNLESS--  
• Other party knew or should have known that mistake was made or  
• Mistake was due to substantial mathematical error, made inadvertently and without gross negligence];
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**BILATERAL MISTAKE**

Both parties mistaken

**CONTRACT CAN BE RESCINDED  
BY EITHER PARTY**

**UNILATERAL MISTAKE**

One party mistaken

**CONTRACT ENFORCEABLE UNLESS–**

- Other party knew or should have known that mistake was made *or*
- Mistake was due to substantial mathematical error, made inadvertently and without gross negligence

# CASES

- At the time of entering a contract for life insurance both parties believed the beneficiary was alive. When in fact he was dead. **The contract is enforceable?**
- Suppose that Party A agrees to pay Party B \$5000 for Party B's "car." Party B has two cars, a Honda and a Ford. Party A intends to purchase the Ford, but Party B believes they are contracting for the Honda. **The contract is enforceable?**

# Answer

- No, the contract isn't enforceable in the two cases because a mutual mistake had been made, the parties had attached materially different meanings to an essential term of the contract.

# CASE

- DeVinck intends to sell his motor home for \$32,000. When he learns that Benson is interested in buying a used motor home, DeVinck faxes Benson an offer to sell the vehicle to him. When typing the fax, however, DeVinck mistakenly keys in the price of \$23,000. Benson immediately sends DeVinck a fax accepting DeVinck's offer. **The contract is enforceable? What if Benson knows about DeVinck intention to sell for 32,000\$?**

# Answer

- Even though DeVinck intended to sell his motor home for \$32,000, his unilateral mistake falls on him. He is bound in contract to sell the motor home to Benson for \$23,000. The contract is enforceable.
- if Benson knew that DeVinck intended to sell his motor home for \$32,000, then DeVinck's unilateral mistake (stating \$23,500 in his offer) can render the resulting contract unenforceable.

# **Mistake of Value**

# Mistake of Value

- If **the mistake** relates to the **value** of the subject matter, either party **can enforce** the contract.
- Each party is considered to have **assumed the risk** that the value will change in the future or prove to be different from what he or she thought.
- Without this rule , **almost any party** who **did not** receive what she or he considered a **fair bargain** could argue mistake.



# Case

- Renee buys a violin from Ian for \$250. Although the violin is very old, neither party believes that it is particularly valuable. Later, however, an antiques dealer informs the parties that the violin is rare and worth thousands of dollars. The Contract is enforceable?

# Answer

- both parties were mistaken, but the mistake is a mistake of *value* rather than a mistake of *fact* that would justify contract rescission . The contract normally is enforceable.

**INVALIDITY FOR Misrepresentation**

# INVALIDITY FOR Misrepresentation

- fraudulent misrepresentation consists of the following elements:
  1. A misrepresentation of a **material fact** , **not opinion unless expert opinion**
  2. There must be an **intent to deceive**. “guilty knowledge,”
  3. The innocent party must **justifiably rely** on the **misrepresentation**.

# CASE

- Actor Tom Selleck contracted to purchase a horse named Zorro for his daughter from Dolores Cuenca. Cuenca acted as though Zorro was fit to ride in competitions, when in reality the horse suffered from a medical condition. **The contract is enforceable?**
- Audrey, a widow without family, attended a dance party at dance school. The dance instructor praised Audrey 's grace and poise, and convinced her that she had the potential to become an accomplished dancer. Over a period of sixteen months, the instructors hold her 2,302 hours of dancing lessons for a total amount of \$31,090.45 When it became clear to Vokes that she did not, in fact, have the potential to be an excellent dancer, she filed a suit against the school, alleging fraudulent misrepresentation. **Advise Audrey**

# Answer

- a jury awarded Selleck more than \$187,000 for Cuenca's misrepresentation by conduct.
- The court held that because the dance school had superior knowledge about a person's dance potential, the instructor's statements could be considered statements of fact rather than opinion and it was considered as Misrepresentation.

**INVALIDITY FOR Duress and undue  
influence**

# Undue Influence

- arises from **special kinds of relationships** in which one party can greatly influence another party, thus overcoming that party's free will.
- A contract entered into under excessive or undue influence **lacks voluntary consent** and is therefore voidable.
- When a contract **enriches the dominant party**, the court will often *presume* that the contract was made under **undue influence**.



# Duress

- The use of **threats or force to enforce a party to enter into a contract.**

# CASE

- A threatened B if B didn't agree to sell his property to A which was a large piece of land near to A's property he will kill his daughter. The contract is enforceable?
- If a son induces his father to enter into a contract that benefits the son. **The contract is enforceable?**

# Answer

1. No contract for Duress
2. No Contract for Undue influence