

LICENSES

Abstract-

In this paper author discuss about the licenses.

In Chapter VI of THE INDIAN EASEMENT ACT,1882, License is defined. Is there a law for licensing? There is a licensing law but it is specifically used in some cases. The privileges or special rights of the licensee may be terminated at will if a licensor does not give cause to expect. The license under the Transfer of Property Act means permission to enter or use the property of another.

INTRODUCTION-

According to Black's Law Dictionary-; License is the context of property law as an authority to do a particular act or series of act upon another's land without possessing and estate therein. Whereas,

According to Oxford Dictionary of Law-; License is the permission to enter or occupy a person's land for an agreed purpose.

MEANING-

According to section 52 of THE INDIAN EASEMENT ACT,1882. License is “where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.”

The person who grant license are known as “licensor”. And, the person who received license known as “licensee”.

Now, the question arises, who may grant license? And, whether this grant may be express or implied?

A license may be granted by anyone in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license. And, the grant of a license may be express or implied from the conduct of the grantor, and an agreement which purpose to create an easement, but is ineffectual for that purpose, may operate to create a license.

ESSENTIAL INGREDIENTS OF LICENSE-

The essentials are as follows:

1. There are two different persons.
2. There has to be grant.
3. License is always useful.

4. License is granted to something in or upon the granters immovable property.
5. License does not relate to ownership of any land but only creates a personal right or obligations.

DUTIES OF GRANTOR'S-

There are several duties of grantor's but among them only three duties are most important:

1. Grantor's duty to disclose defects.
2. Grantor's duty not to render property unsafe.
3. Grantor's transferee not bound by license.

Means, the grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee. And, when the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

WHEN IS THE LICENSE TRANSFERABLE?

Unless a different intention is expressed or necessarily implied, a license granted by the licensor to licensee cannot be exercised by the other person, it can only be exercised by the person, to whom the license is granted. OR, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

EXAMPLE:

The Government grant B a license to erect and use temporary grain-sheds on government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

TYPES OF LICENSE-

1. Bare license.
2. License by estoppel.
3. License coupled with interest.
4. Contractual license.

ADVANTAGES OF LICENSING-

- Relatively low investment on the part of the licensor.
- It reduces risks for the parties and the risk of failure does not rest with the licensee.
- It creates new opportunities in the property matter.
- It creates an easier entry to enter into someone's property without being a trespasser.

DISADVANTAGES OF LICENSING-

- It does not give any guarantee.
- It could damage the reputation of both the licensor and licensee.
- It is only offered for a limited time.

REVOCATION OF LICENSE-

A license is deemed to be revoked:

- When, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license.
- When the licensee releases it, expressly or impliedly, to the grantor or his representative.
- Where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled.
- Where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right.
- Where the licensee becomes entitled to the absolute ownership of the property affected by the license.
- Where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable.
- Where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist.
- Where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee.
- In the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

“The Revocation of License may be express or implied.”

In ASSOCIATED HOTEL OF INDIA vs. R.N. KAPOOR, 1959¹.

If the document creates an interest in the property, it is a lease but if it only permits another to make use of the property of which the legal possession continues with the owner, it is a license because it does not create any interest in that property. Here, legal possession is with the real owner.

¹ AIR 1959

CONCLUSION-

According to the arguments above, a licence is simply permission to do something on real estate, such as occupying it, enjoying it, or using it for another purpose. It is a written version of a contract between the licensee and the grantor. It resembles one person giving another their consent or the authority to do something. A licence cannot be given away or transferred. The aforementioned fact does not imply that the phrase "licence" is exempt from licence regulations. There is a licence statute, however it is only applied in certain circumstances. If a licensee is not given a reason to expect it, the privileges or special rights may be revoked at any time. The license under the Transfer of Property Act means Permission to enter or use the property of another.