

BLAW201 - Final Exam

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December 9, 2009

Chapter 15 - Consideration

Consideration is a legal, bargained for detriment on both sides. It is what each party to a contract gives up to the other in making their agreement.

- Legal Detriment:
 - Taking on some duty, task, or obligation that you had no pre-existing duty to take on, or giving up some right you had no pre-existing duty to give up.
 - If the doing of an act would be legal detriment to the do-er, then the promise to do it is considered legal detriment as well.
 - Peppercorn Rule: Any detriment is reasonable detriment, e.g. Early payment is detriment.
 - Payment to a different person, to a different place, at a different time, or in a different medium than was originally required.
- Bargained-For Exchange: Something of value must be given or promised in return for the performance or promise of performance of the other.
- Gifts: Promises to make a gift are unenforceable promises because of the lack of consideration. There is no bargained-for exchange.
- Adequacy of Consideration: Because the adequacy of consideration is ignored, it is immaterial that consideration is so slight that the transaction is in part a “gift.”
- Pre-existing Duty Rule:
 - If you have a pre-existing legal obligation to do something, it can’t be considered legal detriment
 - Similarly, a promise to refrain from doing what one has no legal right to do is not consideration
- Lack of Liquidation: Where a creditor promises to take less from a debtor where the amount is not in dispute, that is not legal detriment
- Implied Terms: Personal debts must be delivered to the creditors home
- Promissory Estoppel: A promisor may be prevented from asserting that a promise is unenforceable because the promisee gave no consideration.
 - Reasonable promise without consideration
 - Promisor expects reliance on the promise
 - The promisee relies on the promise
 - Enforcement of the promise avoids injustice

Chapter 19 - Discharge

Discharge is the release of obligations from a contract, legally

- Reasons for Discharge:
 - The destruction of the subject matter discharges the contract
 - Intervening illegality - the contract is discharged if a law is enacted making the performance illegal
 - Death in regards to a highly skilled or personal performance
 - Frustration of Purpose: contract can only be discharged if both parties are aware and the purpose no longer exists
- Not Reasons for Discharge:
 - Death of a party does not discharge a contract
 - Impossibility: if the reason is one that is reasonably within the contemplation of the parties at the time the contract is enacted

Chapter 20 - Remedies

Remedies are damages for Breach of Contract

- The philosophy of contract damages is to place the injured party in the position he/she would have been if the contract had been performed, as best as money can
- Mitigation Duty: Party has a duty to make the breaching parties damages as little as possible
- Compensatory Damages
 - Buyer breaches - Seller attempts to re-sell to another buyer, and receives the differences from the contract
 - Seller breaches - Buyer attempts to find another seller, and receives the differences from the contract
- Incidental Damages
 - Additional costs as a result of the breach
- Nominal Damages - small amounts
 - It is the duty of the plaintiff to prove damages with reasonable certainty
- Liquidated Damages
 - Allows the parties to agree to an estimate of damages, within reason
 - Cannot legally be allowed to be unreasonably large, to act as a club or penalty
- Consequential Damages
 - Similar to Incidental damages, costs as a result of the breach
- Specific Performance
 - Force to perform the contract
 - Where the item is rare and money is not a reasonable recompense
 - Personal service contracts are not enforceable