

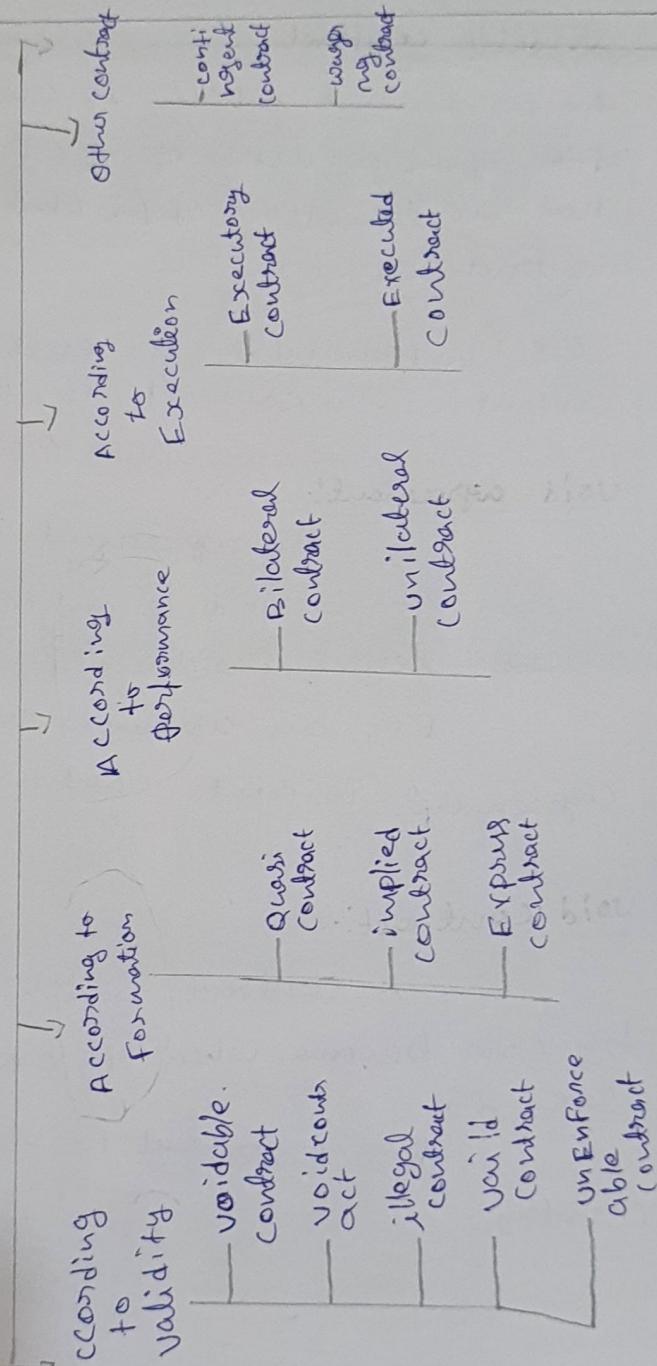
Subject code: CYASD
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Classification of contract



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voidable contract

An agreement which is enforceable by law at the option of one or more of the parties there to but not at the option of the other or other is a voidable contract see 2(i)

This happen when the essential element of free consent in a contract is missing.

void agreement:

An agreement not enforceable by law is said to be void A void agreement does not create legal right or obligation.

Eg, an agreement with minor or an agreement without consideration.

void contract:

A contract which ceases to be Enforceable by law become when it ceases to be Enforceable.

Sec 2(g)

Eg. A contract to import good from a foreign country.

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illegal agreement

An illegal agreement is one which disobeys some rule of basic public policy or which is criminal in nature or which is immoral.

E.g. B. borrow Rs. 5000 from A and Enter into a contract with an alien to import prohibited

good.

Classification according to formation:

Express contract

If the terms of contract are expressly agreed upon (whether by word, spoken or written) at the time of formation of contract.

Implied contract

Where the proposal or acceptance of any promise is made otherwise than in words, the promise is said to be implied (Sec 9).

Omnibus contract

A Omnibus contract is not a contract.

A contract is intentionally entered into by the parties.

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Classification according to performance.

Executed contract:

Executed contract mean that which is done. An executed contract is one in which both the parties have performed their respective obligations.

Executory contract:

Exe cutory contract that which remain to be carried into effect. Executory contract is one on which both the parties have yet to perform their obligation.

E.g. A has not yet painted the picture and B has

not paid the price.

A agrees to engage B at from the next month.

Handwritten notes

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Ques.) When there is a breach of contract, aggrieved party can take the following remedies.

Recession of the contract.

Quantum meruit.

Specific performance.

Injunction.

Damages.

Recession of the contract:-

When there is a breach of contract by one party the other party can rescind the contract and he is free from all obligations of under the contract.

Eg:-

A agrees to deliver 10 kg rice to B on 1st Oct. B. promise to pay the price on the same day.

Quantum meruit:-

Quantum meruit means as much as earned if it is only an obligation created by law.

Example:-

C was appointed as MD of a company.

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Specific performance.

specific performance means an order of the court directing the party who commits breach of contract to do what he has promised to do.

Injunction!

Injunction is an order of the court directing the party who commits breach of contract either to do or not to do something.

Eg.: manatty agreed to act only for

Shaji & Co for one year.

Damages:

The amount of compensation awarded to the aggrieved party for breach of contract.

Eg.:

Nominal damages.

Special damages.

Actual damages

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21.) The acceptance of an offer is the very essence of a contract. To be legally effective, it must satisfy the following conditions:

It must be Absolute and unqualified i.e. it must conform with the offer.

An acceptance, in order to be binding, must be absolute and unqualified (Sec. 7 (1)) in respect of all terms of the offer whether material or immaterial major or minor.

Eg:-

a.) made an offer for B to purchase a house with possession from 25th July. The offer was followed by an acceptance suggesting possession from 1st August.

b.) M offered to sell a piece of land to N at £ 280.

c.) N offered to buy J's horse if warranted quiet in harness. J agreed for the price and warranted the horse in double harness.

d.) A says to B, "I offer to sell my car for £ 50,000 B.

replies, I will purchase it for £ 45000.

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It must be communicated for the offeror.

To conclude a

Contract between the parties, the acceptance must be communicated in some perceptible form.

Eg!:

A tell B that he intends to marry C, but tell C nothing of his intention. There is no contract even if C is willing for marriage A.

if F offered to buy his nephew's horse for £ 30 saying, if I hear no more about it I shall consider the horse is mine at £ 30.

c) A draft agreement relating to the supply of coal was sent to the manager of a railway company for his acceptance.

It must be according to the mode prescribed or usual and reasonable mode.

If he does not return the offer, he is deemed to have accepted the acceptance (See 7(2)).

Eg!:

A makes an offer to B and says, If you accept the offer reply by wire. B. Sends the reply by post.

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It must show an intention on the part of the acceptor to fulfill terms of the promise.

If no such intention is present the acceptance is not valid.

It must be given by the party or parties to whom the offer is made.

It must be given before the offer lapses or before the offer is withdrawn.

It cannot be implied from silence. The acceptance of an offer cannot be implied from the silence of the offeree or his failure to answer unless the offer, had by his previous conduct indicated that his silence meant that he accepts.

Section-B.

13. Source of Law.

English mercantile law.

(Source of India mercantile law.)

Common Law!.

It is unwritten law and its principle recognised and applied whenever subsequent dispute of similar nature arise.

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EQUITY:

it is based upon concept of justice developed by the Judge whose decision become precedents. It is also unwritten law.

Statute law:

law laid down Act of Parliament.

Other Source of Law

Law merchant or maritime usage -

based on custom and usage.

prevail amongst merchant and traders.
developed during 14th and 15th centuries.
was recognised by the common law court
(part of common law)

Roman Law:

It was made when custom and usage failed to afford solution for particular case.

CASE LAW:

It is built upon previous judicial decision.

Statute Law:

The Contract Act 1872, the Sale of Goods Act 1930 the Partnership Act 1932 the Companies Act 1956 are the instance of Statute law.

In your relentless efforts to provide quality care,

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Judicial decisions or the system of precedents!

This is a source

of law based upon previous judicial decisions which have to be followed in similar future cases.

Customs and usages:

When custom is accepted by a court and is incorporated in a judicial decision it becomes a legal recognised custom.

14. A contract is an agreement made between two or more parties which the law will enforce.

Offer and acceptance.

Intention to create legal relationship.

Lawful consideration.

Lawful object.

Legal formation.

Capacity of parties.

Free and genuine consent.

Agreement not declared void.

Offer and acceptance.

There must be two parties

for an agreement, i.e. one party making the offer and other party accepting it.

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Lawfull consideration:-

An Agreement to be enforceable must be supported by consideration something returns.

Intention to create legal relationship:-

When two parties enter into an agreement there intention must be to create legal relationship between them.

Capacity of parties

is of the age of majority.

is of sound mind.

is not disqualifed from contracting

by law for which he is subject (Sec 11-12).

free and genuine contract.

Coercion.

Undue influence.

Fraud.

Misrepresentation.

Legal formalities:-

A contract may be made by word & spoken or written.

A contract besides being a written one has to be registered.

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Lawful object

The object of the agreement must be lawful. In other words, it means that the object must not be

illegal.

immoral.

Opposed to public policy.

Agreement not declared void.

The agreement must not have been expressly declared void by law in force in the country.

| S.No | Indemnity | Guarantee |
|------|--|--|
| 1. | There are two parties to the contract namely, the indemnifier (promisor) and the indemnified (promisee). | There are three parties to the contract namely the creditor, the principal debtor and the Surety. |
| 2. | The liability of the indemnified for the indemnified is primary to the indemnified. | The liability of the Surety to the creditor is collateral or secondary the primary liabilities being that of the principal debtor. |
| 3. | It is not necessary for the indemnifier to act at the request of the indemnified. | It is necessary that they Surety should give the Guarantee at the request of the debtors. |

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The liability of the indemni
ties arise only on the
happening of a contingency

There is usually an
existing debt or duty
and the performance of
which is guaranteed by
the Surety.

He can do so only if there
is an assignment in his
favour.

He can proceed against
the principal debtor
in his own right.

18. * To carry out the work undertaken according to the
direction given by the principal.

* To carry out the work with reasonable care, skill
and diligence.

* To render proper accounts to his principal.

* To communicate with the principal.

* Not to deal on his own account.

* Not to deal on his own account.

* To pay sums received for the principal.

* Not to make secret profit from agency.

* Not to set up an adverse title.

* Not to delegate authority.

* Not to delegate authority.

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7. Sec. 126 of the Act which deals with the contract of guarantee has defined it as a "contract to perform the promise or discharge the liability of a third person in case of his default".

9) Surety:

A Surety is an entity or an individual who assumes the duty of buying the debt but the event that the debtor fails or is not able to make the payments, the Party which guarantees the debt is called a Surety or the Guarantor.

10. Agency Agreement:

An agency agreement is a legal contract creating a fiduciary relationship whereby first party agrees that the actions of a second party, agent as if the principal or latter, agreements made by the agent.

11. Contract of Sale :-

A contract of Sale, Sale - contract for sale or contract for sale is illegal. Contract for the purchase of assets by a buyer from a seller for an agreed upon value in money.

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1. Law is the body of principle recognised and applied by state in the administration of Justice.

2. A contract is an agreement made between two or more parties which the law will enforce.

3. An offer is a proposal by one party to another to enter into a legal binding agreement with him.

4. According to Sec. 17 Fraud means and includes any of the following acts committed by a party for a contract. Fraud exists when it is shown that.

5. Every person is competent to contract if he is of the age of majority, is of sound mind, is not disqualifed from contracting by law to which he is subject (Sec 11-12).

6. Unilateral mistake when in a contract only one of the parties is mistake regarding the subject matter or in expressing or understanding the terms or the legal effect of the agreement the mistake is unilateral mistake.