Discharge of contract

Meaning

The discharge of a contract refers to the termination or bringing to an end of the contractual obligations and rights between the parties involved in the contract. It essentially means that the contract has been fulfilled, terminated, or otherwise brought to an end, releasing both parties from their respective duties and liabilities under the contract.

Modes of discharge

There are several ways in which a contract can be discharged:

1. Performance: When both parties have fully performed their respective obligations under the contract, it is considered discharged by performance.

   Examples

   1. The customer remunerates the shopkeeper for goods and acquires them;

   2. The bank provides a loan to individual X, who subsequently repays the loan; and

   3. A tenant consistently pays rent for an extended period, even after vacating the premises, as long as no other individual has taken possession of it.

2. Agreement: The parties can mutually agree to terminate the contract through a new agreement or by canceling the existing contract.

   Discharge by Agreement may be characterized as a form of release that arises when the parties involved in a contractual arrangement mutually concur that one or more participants ought to be freed from their contractual obligations, all the while keeping the terms and conditions of the contract itself intact.

   An illustration of Discharge by Agreement can be exemplified in the subsequent scenario: At the inception of the agreement, the parties involved mutually agree that specific terms and conditions shall no longer be applicable to either party subsequent to a designated date or within a specified duration.

Alternatively, both parties may consent to terminating the contract by providing compensation to the opposing party for any losses or damages incurred as a result of a breach of the contractual agreement.

3. Breach: If one party fails to perform their contractual obligations, the other party may treat the contract as discharged due to the breach.
4. Frustration: If an unforeseen event occurs that makes the performance of the contract impossible or radically different from what was initially contemplated, the contract may be discharged by frustration.
5. Operation of law: In certain circumstances, a contract may be discharged by operation of law, such as when a party becomes bankrupt or when a change in legislation renders the contract illegal or impossible to perform.
6. Lapse of time: If a contract has a specific time limit or deadline, and the time expires without performance, the contract may be discharged due to the lapse of time.
7. Accord and satisfaction: This occurs when one party offers and the other party accepts something different from what was originally agreed upon in the contract, thereby discharging the original contractual obligations.

It's important to note that the specific circumstances and requirements for the discharge of a contract may vary depending on the applicable laws and the terms of the contract itself.

There are several modes or ways in which a contract can be discharged. Here are the main modes of discharge of a contract:

1. Discharge by Performance:
   - This occurs when both parties to the contract have fully performed their respective obligations under the terms of the contract.
2. Discharge by Agreement or Mutual Consent:
   - The parties can mutually agree to terminate or discharge the contract through a new agreement or by canceling the existing contract.
3. Discharge by Breach:
   - If one party fails to perform their contractual obligations, the other party may treat the contract as discharged due to the breach.
4. Discharge by Impossibility of Performance:

- If an unforeseen event occurs that makes the performance of the contract impossible or radically different from what was initially contemplated, the contract may be discharged by impossibility of performance or frustration.

5. Discharge by Operation of Law:
   - A contract may be discharged by operation of law in certain circumstances, such as when a party becomes bankrupt, or when a change in legislation renders the contract illegal or impossible to perform.
6. Discharge by Lapse of Time:
   - If a contract has a specific time limit or deadline, and the time expires without performance, the contract may be discharged due to the lapse of time.
7. Discharge by Accord and Satisfaction:
   - This occurs when one party offers and the other party accepts something different from what was originally agreed upon in the contract, thereby discharging the original contractual obligations.
8. Discharge by Remission or Waiver:
   - One party may choose to remit or waive their rights under the contract, effectively discharging the other party's obligations.
9. Discharge by Merger:
   - When a higher-grade document (such as a deed) is executed concerning the same subject matter as a contract, the contract may be discharged by merger with the higher-grade document.
10. Discharge by Insolvency or Bankruptcy:
    - If one of the parties becomes insolvent or bankrupt, the contract may be discharged, depending on the specific circumstances and applicable laws.

It's important to note that the specific requirements and legal consequences of each mode of discharge may vary depending on the applicable laws and the terms of the contract itself.

Discharge of contract by performance

Discharge of contract by performance refers to the situation where both parties to a contract have fully performed their respective obligations as specified in the terms of the contract. In other words, when both parties have done what they were required to do under the contract, the contract is considered discharged or terminated by performance.

For a contract to be discharged by performance certain conditions must be met

1. Complete Performance: Both parties must have carried out all their contractual duties and obligations precisely as stipulated in the contract. Even a slight deviation from the prescribed performance may not constitute a valid discharge by performance.

2. Proper Performance: The performance must be in accordance with the agreed-upon terms and conditions of the contract. Defective or substandard performance is generally not considered a valid discharge.

3. Timely Performance: The performance must be carried out within the specified time frame or deadline mentioned in the contract. Late performance may not qualify as a discharge unless the delay is excused or waived by the other party.

4. Acceptance of Performance: The performance by one party must be accepted by the other party. If the performance is rejected or deemed unsatisfactory by the receiving party, the contract may not be considered discharged.

Once both parties have fully and properly performed their contractual obligations, the contract is deemed to be discharged by performance, and neither party has any further rights or obligations under that contract.

It is important to note that the specific requirements for discharge by performance may vary depending on the nature of the contract and the applicable laws governing the contract. In case of any disputes or ambiguities, the terms of the contract and the relevant legal provisions will determine whether the contract has been effectively discharged by performance.

1. Contract which must be performed Sec 37-39
2. Contract which must be performed by whom Section 40-45
3. Time and place for performance Section 46-50
4. performance of reciprocal promise Section 2f Section 51-58
5. Appropriation of payments Section 59-61
6. contract which need not be performed Section 62-67

When a contract is discharged

When a contract is discharged by performance, there are certain conditions related to the tender of performance that must be fulfilled. These conditions help determine the validity and effectiveness of the performance offered. Here are the key conditions for a valid tender of performance:

1. How: The tender of performance must be in accordance with the terms and conditions specified in the contract. The party tendering performance must offer to perform their obligations precisely as agreed upon in the contract.

2. By whom: The tender of performance must be made by the party who is obligated to perform under the contract or by someone authorized to perform on their behalf. A tender by an unauthorized third party is generally not considered valid.

3. Where: The tender of performance must be made at the place specified in the contract or, if no place is specified, at a reasonable place. The location of the tender can be crucial, especially in contracts involving the transfer of goods or property.

4. When: The tender of performance must be made within the time frame or by the due date stipulated in the contract. If no time is specified, the tender must be made within a reasonable time. Timely tender is essential for a valid discharge by performance.

5. In what manner: The manner of tender must be consistent with the terms of the contract and any applicable legal requirements. For example, if the contract requires a written notice or a specific mode of delivery, the tender must conform to those requirements.

Additionally, the tender of performance must be unconditional and unqualified. The party tendering performance cannot impose any new conditions or terms that are not part of the original contract.

It is also important to note that the tender of performance must be communicated or made known to the other party. A tender that is not properly communicated or brought to the attention of the other party may not be considered valid.

If the tender of performance meets all the necessary conditions and is accepted by the other party, the contract is effectively discharged by performance. However, if the tender is invalid or rejected, the contract may remain in force, and the party who failed to tender valid performance may be in breach of the contract.

PERFORMANCE OF RECIPROCAL PROMISES

Performance of reciprocal promises under a contract refers to the situation where both parties are obligated to perform their respective promises or obligations concurrently or in a specific sequence, as specified in the contract.

In a contract with reciprocal promises, neither party is required to perform their part of the bargain until the other party has performed or tendered performance of their own obligations. This concept is known as the "doctrine of reciprocal promises" or the "doctrine of concurrent conditions."

Here are some key points regarding the performance of reciprocal promises under a contract:

1. Conditional Performance: When promises are reciprocal, each party's performance is conditional upon the other party's performance or tender of performance. Neither party is bound to perform unless the other party performs or tenders performance first, or both parties are ready and willing to perform simultaneously.
2. Order of Performance: The contract may specify the order in which the parties are required to perform their respective promises. If no specific order is stated, the law generally implies that the parties are obligated to perform concurrently or simultaneously.
3. Tender of Performance: If one party is ready and willing to perform their part of the bargain, they can tender performance to the other party. This tender of performance must be valid and in accordance with the terms of the contract.
4. Refusal to Perform: If one party refuses to perform or tender performance, the other party may be excused from performing their own obligations under the contract, as the reciprocal promises are dependent on each other.
5. Breach and Remedies: If one party fails to perform their reciprocal promise or obligation, the other party may have the right to treat the contract as breached and seek remedies, such as damages or termination of the contract.
6. Exceptions: There may be exceptions to the doctrine of reciprocal promises, such as when one party's performance is required as a condition precedent before the other party is obligated to perform, or when the contract explicitly states that one party must perform first.

The performance of reciprocal promises is essential in ensuring the fairness and balance of contractual obligations. It prevents one party from taking advantage of the other by requiring both parties to fulfill their respective promises concurrently or in the agreed-upon order.

Time is essence of contract meaning, implication and examples

The phrase "time is of the essence" in a contract refers to the situation where the performance or fulfillment of contractual obligations must be completed within a specified timeframe or by a particular date. It essentially means that timely performance is a critical and essential element of the contract.

Meaning: When "time is of the essence" is stated in a contract, it indicates that the parties intend for the agreed-upon deadlines or timeframes to be strictly enforced. Failure to perform within the specified time period may constitute a breach of contract, allowing the non-breaching party to seek remedies or terminate the agreement.

Implications:

1. Strict Compliance: If time is of the essence, both parties are required to strictly comply with the time limits or deadlines set forth in the contract. Even a slight delay in performance may be considered a breach.
2. Essentiality of Time: The timely performance of obligations becomes an essential condition of the contract, rather than just a secondary or incidental requirement.
3. Remedies for Delay: If one party fails to perform within the specified timeframe, the other party may have the right to seek legal remedies, such as damages, specific performance, or termination of the contract.
4. No Grace Period: Unless explicitly stated otherwise, the "time is of the essence" clause generally means that no grace period or extension of time is automatically granted for performance.

Examples:

1. Real Estate Transactions: In real estate contracts, such as purchase agreements or lease agreements, time is often of the essence. Closing dates, move-in dates, or rent payment deadlines are typically strictly enforced.
2. Construction Contracts: In construction projects, time is commonly considered essential due to the potential impact of delays on costs, resource allocation, and project completion.

3. Event Planning: For contracts related to event planning, such as weddings or conferences, adhering to specific dates and timelines is crucial for successful execution.
4. Delivery Contracts: In contracts involving the delivery of goods or services, time may be of the essence to ensure timely receipt and avoid disruptions or losses.

It's important to note that if the contract does not explicitly state that "time is of the essence," the courts may still consider time as an essential element based on the nature of the contract, the circumstances, or the parties' conduct. However, explicitly including the "time is of the essence" clause leaves no room for ambiguity regarding the importance of timely performance.

Assignment of contract meaning and Indian law

Assignment of contract refers to the transfer of rights and obligations under a contract from one party (the assignor) to another party (the assignee). It allows the assignee to step into the shoes of the assignor and take over the contractual rights and obligations.

Meaning: In an assignment of contract, the assignor transfers their interest, rights, and obligations under the contract to the assignee. The assignee then becomes entitled to receive the benefits and perform the obligations under the contract as if they were the original party to the contract.

Indian Law on Assignment of Contracts: The Indian Contract Act, 1872, governs the assignment of contracts in India. The relevant provisions are as follows:

Section 37: "The parties to a contract must either perform, or offer to perform, their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law."

This section implies that contractual rights and obligations can be assigned unless there is a specific legal prohibition or the contract itself prohibits assignment.

Section 38: "The obligation of any party in a contract to perform, or to offer to perform, the promise made to the other must involve a personal obligation."

This section suggests that if the contract involves personal skill or expertise, it may not be assignable without the consent of the other party.

Additionally, the Indian Contract Act provides certain exceptions and restrictions on the assignment of contracts:

1. Non-assignable contracts: Contracts involving personal skill, trust, or confidence cannot be assigned without the consent of the other party.
2. Restriction by agreement: If the contract itself prohibits or restricts assignment, the parties must comply with those terms.
3. Assignment of liabilities: While contractual rights can be assigned, liabilities or obligations may not be assigned without the consent of the other party, as per the principles of privity of contract.
4. Assignment of future rights: Future rights or benefits arising from a contract may be assigned, subject to certain conditions and limitations.

It is important to note that the assignment of a contract must be made in accordance with the terms of the contract and applicable laws. The assignee steps into the shoes of the assignor and takes over the contractual rights and obligations as they existed at the time of assignment.

In practice, the assignment of contracts is common in various business transactions, such as the transfer of lease agreements, intellectual property rights, or contractual rights under a sale of business or assets.

Discharge of contract by death and bankruptcy and Indian law

In Indian law, the discharge of a contract due to death or bankruptcy is governed by the provisions of the Indian Contract Act, 1872, and other relevant laws. Here's how discharge of contract by death and bankruptcy is treated under Indian law:

1. Discharge of Contract by Death:
    - Section 37 of the Indian Contract Act states that the obligations of a contract must be performed unless performance is excused or discharged under the provisions of the Act.
    - In case of death of a party to a contract, the contract may be discharged, depending on the nature of the contract and the type of obligations involved.
    - If the contract involves personal skills or obligations that can only be performed by the deceased party, the contract is discharged by their death.
    - However, if the obligations under the contract can be performed by the legal representatives or heirs of the deceased party, the contract

may not be discharged, and the legal representatives or heirs may be required to fulfill the obligations.

2. Discharge of Contract by Bankruptcy:

    - The Indian Contract Act does not explicitly address the discharge of contracts due to bankruptcy. However, the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC) and other relevant laws govern the discharge of contracts in case of bankruptcy.
    - Under the IBC, when a corporate debtor is declared bankrupt or undergoes insolvency resolution proceedings, certain contracts may be terminated or discharged by the Insolvency Resolution Professional (IRP) or the Resolution Professional (RP), subject to the approval of the Adjudicating Authority.
    - The IRP or RP has the power to terminate or accept or assign certain contracts based on their assessment of the corporate debtor's assets and liabilities.
    - In the case of individuals, the discharge of contracts due to bankruptcy was governed by the provisions of the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920.
    - Generally, upon being declared insolvent, an individual's contracts may be discharged or assigned to the Official Assignee or the Court Receiver, who will manage the affairs of the insolvent individual.

It's important to note that the discharge of contracts due to death or bankruptcy may also be subject to specific terms and conditions of the contract itself, as well as the discretion of courts or insolvency authorities in certain cases. Additionally, certain types of contracts, such as those involving personal services or fiduciary obligations, may be treated differently in the event of death or bankruptcy.

Discharge of contract By breach - anticipatory breach and present breach and Indian law

Under Indian law, a contract can be discharged by breach, which can be further classified into two types: anticipatory breach and present breach.

1. Anticipatory Breach: An anticipatory breach occurs when one party to a contract, through their words or conduct, indicates their clear intention

not to perform their obligations under the contract before the time for performance has arrived. This repudiation or renunciation of the contract by a party before the due date for performance is known as an anticipatory breach.

The concept of anticipatory breach is recognized under Section 39 of the Indian Contract Act, 1872, which states: "When a party to a contract has refused to perform, or disabled himself from performing his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance."

If a party commits an anticipatory breach, the other party has the option to either: a) Treat the contract as discharged and claim damages, or b) Keep the contract alive and wait for the time of performance to arrive.

2. Present Breach: A present breach, also known as an actual breach, occurs when a party fails to perform their obligations under the contract on the due date or within the specified time for performance. This is a direct and immediate breach of the contract.

Section 39 of the Indian Contract Act also covers present breaches, stating that when a party fails to perform their promise on the due date, the other party may put an end to the contract.

In the case of a present breach, the aggrieved party may: a) Treat the contract as discharged and claim damages for the breach, or b) Keep the contract alive and seek specific performance or other remedies.

It's important to note that Indian law also recognizes certain exceptions where a breach may be excused, such as in cases of impossibility of performance, frustration of contract, or mutual agreement to discharge the contract.

Additionally, the specific remedies available to the aggrieved party in case of a breach (anticipatory or present) may depend on the nature of the contract, the extent of the breach, and other factors as determined by the courts or relevant authorities.

LECTURE 2

Supervening impossibility of performance and discharge of contract

Supervening impossibility of performance refers to a situation where, after the formation of a contract, an unforeseen event or circumstance occurs that makes the performance of the contractual obligations impossible or radically different from what was originally contemplated by the parties. In such cases, the contract may be discharged due to the supervening impossibility of performance.

The doctrine of supervening impossibility is based on the principle that a party should not be held liable for non-performance of a contract if the performance has become objectively impossible due to circumstances beyond their control and without any fault on their part.

For a contract to be discharged due to supervening impossibility of performance, the following conditions generally need to be met:

1. Unforeseen event: The event or circumstance that makes performance impossible must have been unforeseen by the parties at the time of entering into the contract.
2. Not due to the party's fault: The impossibility of performance must not be due to the fault, negligence, or actions of the party seeking to be discharged from the contract.
3. Radical change in circumstances: The supervening event must have fundamentally altered the circumstances or the nature of the contractual obligations, making performance radically different from what was originally contemplated.
4. Objective impossibility: The impossibility of performance must be objective and not merely subjective or personal to the party seeking discharge.
5. Continuing impossibility: The impossibility of performance must be continuing and not just temporary or transient.

Examples of situations that may constitute supervening impossibility of performance include natural disasters, war, changes in law or government regulations that make performance illegal, destruction of subject matter, or the death or incapacity of a party whose personal services were essential to the contract.

It's important to note that the application of the doctrine of supervening impossibility is subject to the specific circumstances of each case and the interpretation of the relevant laws and contract terms. In some cases, the contract may provide for alternative arrangements or allocate the risk of such events, which may affect the applicability of the doctrine.

If a contract is discharged due to supervening impossibility of performance, both parties are generally relieved from their respective obligations under the contract, and neither party can claim damages for non-performance. However, any obligations that have already been performed or benefits received before the supervening event may need to be adjusted or compensated for equitably.

The Doctrine of Frustration, nestled within the Indian Contract Act of 1872, is a pivotal concept in contract law. This legal concept stands as a deviation from the conventional principle that obliges parties to honor their contractual promises, providing a means to harmonize the integrity of contracts with equitable considerations.

This article will explore the Doctrine of Frustration under the Indian Contract Act, delving into its origins, evolution, modern relevance, and key aspects. We will also examine the conditions required to prove the frustration of a contract, the grounds for its application, and its effects on contractual relationships. To provide context and insights, we will refer to relevant case law that has shaped the application of this doctrine in India.

Origins and Evolution of the Doctrine of Frustration

The Doctrine of Frustration finds its roots in English contract law and has been incorporated into Indian law through *Section 56* of the **Indian Contract Act, 1872**. This arises from acknowledging that unforeseen circumstances can render contracts unenforceable by making their execution impossible.

In historical context, the English common law strictly adhered to principles that compelled parties to honor all contractual commitments, even in situations where fulfilling them became impracticable. The origin of the doctrine of frustration can be traced back to the principle of absolute liability forming the basis of contracts in England. It is usually believed by the courts that the parties to a contract must fulfil their obligations in any situation and are absolutely liable for the same. This theory of absolute liability was laid down by the court in the case of *Paradine v. Jane (1647)*. In this case, a person was sued for arrears of rent. He argued that he was evicted and kept out of possession of the land which was beyond his control. This is why he couldn’t receive the profits from the land from which he anticipated that he would get the profit and pay the rent. However, he was still held liable for not paying rent due to the theory of absolute liability.

In order to rectify and avoid the deficiencies of the theory of absolute liability, the concept of doctrine of frustration was introduced. The court for the first time recognised this doctrine in the case of *Atkinson v. Ritchie (1809)* wherein it was held that loading of a British ship on a foreign port is impossible due to outbreak of war between the two countries and hence, the contract is frustrated.

However, this approach in **Paradine v Jane** proved too stringent and potentially unjust. The case of ***Taylor v. Caldwell*** brought about a significant shift in Indian Contract Act law by recognizing that contracts could be frustrated when performance was rendered impossible due to events beyond the parties' control. This ruling laid the groundwork for the modern Doctrine of Frustration.

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Another big step was taken by the English courts in the development of the doctrine in the case of *Krell v. Henry (1903)*. In this case, there was a contract to hire a flat for the coronation of King Edward VII but the coronation was cancelled. The court held that the plaintiff cannot claim the rent because the coronation was cancelled which was the foundation of the contract and hence, the contract stands frustrated. This case made the doctrine applicable to those contracts where the primary and commercial object of entering into a contract is destroyed.

Doctrine of Frustration as Per the Indian Contract Act

In India, the definition of "frustration of contract" is not explicitly provided in the Indian Contract Act of 1872. However, the Act's Section 56 deals with the Agreement to Perform Impossible Acts in India. This section provides a legal provision for a court to invalidate a promisor's obligation to perform an impossible act. If unforeseen circumstances arise that are beyond the control of the promisor, rendering the performance of the contract impossible or unlawful, the contract will be deemed void.

The Satyabrata Ghose v. Mugneeram Bangur and Co. case had a significant impact on the development of the Doctrine of Frustration in the Indian Contract Act. Based on this ruling, the doctrine permits the release of contractual obligations in cases where performance becomes inherently impossible. In the case of Punj Sons Pvt. Ltd. v. Union of India (1986), the court ruled that the contract for the supply of milk containers with tin coating was deemed frustrated due to the unavailability of tin ingots. It is evident that attempting to limit the scope of Section 56 and disregarding construction cases would be ineffective and undermine the entire objective of the doctrine.

Applicability of Section 56

Section 56 of the **Indian Contract Act** plays a critical role in the application of the Doctrine of Frustration. It states that agreements to do impossible acts are void, and when a contract becomes impossible or unlawful due to uncontrollable events, the contract is void. Nevertheless, contracts equipped with precise clauses designed to account for the consequences of unexpected developments are exempt from the provisions of this section. In such instances, the parties remain obligated to adhere to the terms of the contract, even in the face of unforeseen events.

One commonly used contractual provision that addresses unforeseen events is the Force Majeure clause, which refers to unavoidable events that can impact contract performance. It provides relief to the parties when circumstances beyond their control affect the contract's execution. Notably, the Covid-19 pandemic in 2020 led to the invocation of Force Majeure provisions by various ministries in India.

Conditions Required to Prove Frustration of Contract

To establish the Doctrine of Frustration, certain conditions must be met in a contract:

- **Existence of a valid contract:** The contract must be legally valid and binding.
- **The contract is unperformed:** The contract's performance must be pending.
- **Performance has become impossible:** Unforeseen events must render the contract impossible to perform.
- **The impossibility results from uncontrollable events:** The impossibility must arise from events beyond the parties' control.

Grounds for Doctrine of Frustration

There are several grounds that can lead to the application of the Doctrine of Frustration:

- **Impossibility of performance:** The doctrine is triggered when performance becomes impossible. This does not necessarily imply physical impossibility but can include situations where performance becomes impracticable, and the very foundation of the contract is disrupted.

- **Destruction of subject matter:** Destruction of the contract's subject matter is a scenario where frustration comes into play, as it renders the fulfillment of the contract impossible.
- **Death or incapacity of a party:** In cases where the contract hinges on the personal performance of a party, the contract becomes void if that party experiences death or incapacity.
- **Frustration by legal or government intervention:** If a law is enacted after the contract's formation that makes performance impossible, the contract becomes void.
- **Frustration due to a change of circumstances:** This occurs when there is no physical impossibility, but a change in circumstances undermines the contract's primary purpose.
- **The intervention of war:** The outbreak of war can make contract performance difficult, leading to contract frustration.

Effects of the Doctrine of Frustration

When the Doctrine of Frustration applies to a contract, several effects come into play:

Automatic termination: The occurrence of the frustrating event automatically terminates the contract. There is no need for the parties to rescind the contract.

Discharge of further obligations: Both parties are released from any further obligations after the contract is frustrated.

Accrued obligations unaffected: Legal rights or obligations that have already accrued before the frustrating event occurred remain unaffected.

Landmark Case Laws

Indian courts have had a significant impact on the interpretation and implementation of the Doctrine of Frustration. Here are a few significant case laws that have had a significant impact on its interpretation:
In the case of Alluri Narayana Murthy Raja v. District Collector, Vishakhapatnam: In this particular situation, the contract of a leaseholder for sand mining was rendered ineffective because of the opposition from villagers, leading to the application of Section 56 of the Contract Act.
In the case of Industrial Finance Corporation v. Thletdc. Anr&Naonroasr, it was established that the Doctrine of Frustration only applies in situations directly related to the Nationalisation Act. This ruling highlights the importance of a clear and direct connection between the contract and its impossibility.

In the case of CIT Group Inc v. Transclear SA, it was emphasised that contract frustration does not arise when the delivery can be made both physically and legally, regardless of whether the supplier decides not to fulfil the contract. In the case of Mary v. State of Kerala and Others, the theory of frustration was applied as a result of a change in circumstances that rendered the contract's primary purpose unattainable.

Conclusion

The Doctrine of Frustration under the **Indian Contract Act, 1872**, is a crucial element of contract law. It allows for the discharge of contractual obligations when unforeseen events render performance impossible. The doctrine, codified in Section 56, provides a legal framework for addressing changed circumstances that challenge the sanctity of contracts. It serves as a mechanism to ensure fairness and prevent parties from being forced to compensate for actions beyond their control.

As we've explored in this article, the Doctrine of Frustration has evolved over time and continues to play a vital role in the Indian contract act. It enables courts to apply a balanced approach in cases where contracts become impossible to fulfil. Understanding the conditions, grounds, and effects of frustration is essential for both legal professionals and individuals entering into contracts in India.

Specific grounds of frustration AND DISCHARGE OF CONTRACT

The doctrine of frustration is a legal principle that allows for the discharge of a contract when an unforeseen event or circumstance occurs after the formation of the contract, making the performance of the contractual obligations impossible or radically different from what was originally contemplated by the parties. Under Indian law, the specific grounds for frustration and subsequent discharge of a contract include:

1. Destruction of the subject matter: If the subject matter of the contract is destroyed or rendered non-existent, making performance impossible, the contract can be frustrated and discharged. For example, if a contract involves the sale of a specific item, and that item is destroyed before delivery, the contract may be frustrated.

2. Change of circumstances: If there is a fundamental change in circumstances after the formation of the contract, making performance radically different from what was originally contemplated, the contract may be frustrated. This could include situations like a change in law or

government regulations that make the performance illegal or substantially different.

3. Failure of the basic purpose: If an unforeseen event occurs that renders the basic purpose or the principal object of the contract impossible or meaningless, the contract may be frustrated. For instance, if a contract is entered into for the purpose of attending an event, and the event is subsequently cancelled, the contract may be frustrated.
4. Death or incapacity of a party: In contracts involving personal services or skills, if a party dies or becomes incapacitated, making performance impossible, the contract may be frustrated. This applies when the personal performance of that party is essential to the contract.
5. Outbreak of war or civil disturbance: The outbreak of war or civil disturbance, making performance impossible or illegal, can frustrate a contract and lead to its discharge.
6. Government or legislative intervention: If a new law or government action makes the performance of the contract illegal or fundamentally different from what was originally contemplated, the contract may be frustrated.
7. Delay or non-occurrence of a specific event: If the contract is contingent upon the occurrence of a specific event within a certain timeframe, and that event is delayed or does not occur, the contract may be frustrated.

It's important to note that the doctrine of frustration is applied narrowly and is subject to the interpretation of the specific circumstances and the terms of the contract. The mere occurrence of difficulty or hardship in performance is generally not sufficient to invoke the doctrine of frustration.

Additionally, if the contract contains a force majeure clause or allocates the risk of certain events, the application of the frustration doctrine may be affected. The parties may also have the option to renegotiate or modify the contract in case of frustration, rather than having it discharged outright.

Leases and frustration

As stated earlier, in cases where a contract does not include a force majeure clause, parties may still be able to rely on the doctrine of frustration. However, it is important to determine whether this doctrine is applicable to lease agreements as well. The Supreme Court has addressed this matter in multiple

cases involving contracts that pertain to the rights and obligations of parties in a lease agreement.
In the case of Raja Dhruv Dev Chand v. Raja Harmohinder Singh (1968), the Supreme Court ruled that the doctrine does not apply to lease deeds. In cases of lease deeds, the situation is addressed by Section 108(B)(e) of the Transfer of Property Act, 1882. If a leased property or a part of it is destroyed or becomes unfit for use due to fire, flood, violence, or any other reason listed in the Section, the lease can be terminated at the lessee's discretion. The Supreme Court reaffirmed this in the case of Sushila Devi v. Hari Singh (1971), clarifying that the doctrine applies exclusively to contracts and does not extend to lease deeds.

The doctrine of frustration can be applied to leases, leading to the discharge of the lease contract under certain circumstances. Here's how frustration applies to leases and can result in the discharge of the contract:

1. Destruction of the leased premises: If the leased premises, such as a building or land, are completely destroyed or rendered unfit for the intended purpose, the lease contract may be frustrated. This could occur due to natural disasters, fires, or other events that make the premises uninhabitable or unusable.

2. Requisition or compulsory acquisition: If the government requisitions or compulsorily acquires the leased premises for public purposes, such as constructing a road or building public infrastructure, the lease contract may be frustrated and discharged.

3. Change in legal regulations: If a change in legal regulations or zoning laws makes the intended use of the leased premises illegal or substantially different from what was originally contemplated, the lease contract may be frustrated.

4. Temporary occupation or possession: In some cases, if a third party temporarily occupies or takes possession of the leased premises, rendering it impossible for the lessee to use the premises as intended, the lease contract may be temporarily frustrated until the occupation or possession ends.

5. Destruction of a common area: For leases involving commercial premises or buildings with common areas, if the common areas are destroyed or rendered unusable, the lease contract may be frustrated, as the intended use of the premises is significantly affected.

6. Death or incapacity of a party: In cases where the personal services or skills of a party (e.g., a landlord or tenant) are essential to the lease contract, the death or incapacity of that party may frustrate the lease.

It's important to note that the application of the frustration doctrine to leases is subject to the specific circumstances and the terms of the lease agreement. Courts may consider factors such as the duration of the lease, the extent of the frustrating event, and whether the lease can be reasonably adapted or modified to accommodate the changed circumstances.

Additionally, if the lease agreement includes provisions or clauses that allocate the risk of certain events or provide for alternative arrangements, the application of the frustration doctrine may be affected.

In cases where a lease contract is discharged due to frustration, both parties are typically relieved from their respective obligations under the contract. However, any rent or other payments already made or benefits received prior to the frustrating event may need to be adjusted or compensated for equitably.

The doctrine of frustration can be applied to leases, leading to the discharge of the lease contract under certain circumstances. Here's how frustration applies to leases and can result in the discharge of the contract:

1. Destruction of the leased premises: If the leased premises, such as a building or land, are completely destroyed or rendered unfit for the intended purpose, the lease contract may be frustrated. This could occur due to natural disasters, fires, or other events that make the premises uninhabitable or unusable.

2. Requisition or compulsory acquisition: If the government requisitions or compulsorily acquires the leased premises for public purposes, such as constructing a road or building public infrastructure, the lease contract may be frustrated and discharged.

3. Change in legal regulations: If a change in legal regulations or zoning laws makes the intended use of the leased premises illegal or substantially different from what was originally contemplated, the lease contract may be frustrated.

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5. Destruction of a common area: For leases involving commercial premises or buildings with common areas, if the common areas are destroyed or rendered unusable, the lease contract may be frustrated, as the intended use of the premises is significantly affected.
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It's important to note that the application of the frustration doctrine to leases is subject to the specific circumstances and the terms of the lease agreement. Courts may consider factors such as the duration of the lease, the extent of the frustrating event, and whether the lease can be reasonably adapted or modified to accommodate the changed circumstances.

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Theories of frustration OF CONTRACT

There are three main theories or approaches to the doctrine of frustration of contract:

1. The English Theory (Implied Term Theory) This theory, developed through English case law, suggests that frustration operates by implying a term in the contract. The implied term states that the contract will be automatically discharged or terminated upon the occurrence of an event that fundamentally changes the circumstances and makes the performance of the contract radically different from what was originally contemplated by the parties.

According to this theory, frustration is not based on the impossibility of performance but rather on the fundamental change in circumstances that makes the performance of the contract something entirely different from what was bargained for by the parties.

2. The American Theory (Absolute Impossibility Theory) The American theory, which is also followed in some Commonwealth countries, takes a stricter approach to frustration. It holds that a contract can only be

frustrated if the performance of the contractual obligations becomes absolutely impossible due to an unforeseen event or circumstance that was not caused by either party's fault.

Under this theory, mere hardship, inconvenience, or a change in circumstances that does not render performance absolutely impossible is not sufficient to invoke the doctrine of frustration. The focus is on the objective impossibility of performance, rather than a radical change in circumstances.

Proponents of the American theory argue that it provides greater certainty and predictability in contractual relationships, as the threshold for frustration is higher and more clearly defined.

While both theories are recognized in various jurisdictions, the English theory is more widely accepted and applied in many common law countries, including India. The Indian courts have largely followed the English approach, recognizing frustration when an unforeseen event occurs that fundamentally alters the circumstances and makes the performance of the contract radically different from what was originally contemplated.

However, it's important to note that the application of either theory is subject to the specific circumstances of the case, the terms of the contract, and the interpretation of the relevant laws by the courts or legal authorities.

3. CONSTUCTION THEORY

The construction theory of frustration of contract is a legal principle that governs situations where the performance of a contract becomes impossible or radically different from what was originally contemplated due to unforeseen events or circumstances beyond the control of either party. This theory is based on the premise that the parties to a contract are presumed to have entered into the agreement based on certain implied assumptions or expectations about the circumstances under which the contract was to be performed.

The key elements of the construction theory of frustration are:

Unforeseen event: The event or circumstance that makes the performance of the contract impossible or radically different must have been unforeseen by the parties at the time of entering into the contract.

Radical change in circumstances: The unforeseen event must have caused a radical or fundamental change in the circumstances surrounding the performance of the contract, making it significantly different from what was originally contemplated.

<u>Not self-induced</u>: The frustrating event must not have been caused by the fault or negligence of either party to the contract.

<u>Not allocated risk</u>: The risk of the frustrating event occurring must not have been allocated or assumed by either party in the contract.

<u>Impossibility of performance</u>: The unforeseen event must have rendered the performance of the contract impossible or radically different from what was originally contemplated, making it unjust or unreasonable to hold the parties to the original terms of the contract.

The construction theory of frustration is based on the principle of fairness and the idea that the parties should not be held to the terms of a contract when an unforeseen event has fundamentally altered the circumstances surrounding its performance. If the doctrine of frustration applies, the contract may be discharged, or the parties may be relieved from further performance.

It is important to note that the doctrine of frustration is applied narrowly and with caution by courts, as it can potentially undermine the sanctity of contracts. The frustrating event must be truly unforeseen and must have rendered the performance of the contract radically different from what was originally contemplated by the parties.

Effect of frustration OF CONTRACT

When a contract is frustrated due to the occurrence of an unforeseen event or circumstance that makes the performance of the contractual obligations impossible or radically different from what was originally contemplated, it has the following effects:

1. Automatic Termination: The contract is automatically terminated or discharged upon the occurrence of the frustrating event. Neither party is required to take any specific action to terminate the contract, as frustration operates automatically.
2. Parties Released from Future Obligations: Both parties are released from their respective future obligations under the contract. They are excused from performing any remaining contractual duties or promises that were yet to be fulfilled at the time of frustration.

3. No Liability for Non-Performance: Neither party can be held liable for non-performance of their contractual obligations due to the frustrating event. The doctrine of frustration acts as a defense against claims for breach of contract.
4. Restitution and Adjustment: Any benefits or payments already received by either party before the frustrating event may need to be adjusted or restituted to the other party to prevent unjust enrichment. The aim is to restore the parties to their pre-contract positions as far as possible.
5. Loss Lies Where it Falls: In principle, any losses or expenses incurred by either party before the frustrating event are borne by the respective parties themselves. The doctrine of frustration does not generally provide for compensation for such losses.
6. Exceptions or Limitations: Some contracts may contain clauses or provisions that allocate the risk of certain events or provide for alternative arrangements in case of frustration. In such cases, the effect of frustration may be modified or limited by the terms of the contract.
7. No Automatic Revival: If the frustrating event is temporary or ceases to exist, the contract does not automatically revive. The parties may choose to enter into a new contract or renegotiate the terms, but the original contract remains discharged.

It's important to note that the specific effects of frustration may vary depending on the jurisdiction, the applicable laws, and the interpretation by courts or legal authorities. Additionally, the parties may have the option to renegotiate or modify the contract in the event of frustration, rather than having it discharged outright.

In India, the effect of frustration of a contract is governed by the provisions of the Indian Contract Act, 1872, as well as relevant case laws. Here are the key effects of frustration of a contract under Indian law:

1. Automatic Discharge: Section 56 of the Indian Contract Act states that a contract becomes void when it becomes impossible or unlawful to perform it after it is made. This means that when a contract is frustrated, it is automatically discharged or terminated without any further action required from either party.
2. Release from Future Obligations: Upon frustration, both parties are released from their respective future obligations under the contract. They

are excused from performing any remaining contractual duties that were yet to be fulfilled at the time of frustration.

3. No Liability for Non-Performance: Neither party can be held liable for non-performance of their contractual obligations due to the frustrating event. The frustration operates as a defense against claims for breach of contract.

4. Restitution and Adjustment: Indian courts have recognized the principle of restitution in cases of frustration. Any benefits or payments already received by either party before the frustrating event may need to be adjusted or restituted to the other party to prevent unjust enrichment.

5. Loss Lies Where it Falls: In principle, any losses or expenses incurred by either party before the frustrating event are borne by the respective parties themselves. However, courts may exercise discretion to allocate or distribute losses in certain cases, based on principles of equity and fairness.

6. Exceptions or Limitations: If the contract contains provisions or clauses that allocate the risk of certain events or provide for alternative arrangements in case of frustration, the effect of frustration may be modified or limited by the terms of the contract.

7. No Automatic Revival: If the frustrating event is temporary or ceases to exist, the contract does not automatically revive under Indian law. The parties may choose to enter into a new contract or renegotiate the terms, but the original contract remains discharged.

It's important to note that the application of the frustration doctrine and its effects are subject to the interpretation of the specific circumstances by Indian courts. The courts have discretion in determining whether a contract has been truly frustrated and in determining the appropriate remedies or adjustments to be made in such cases.

Additionally, certain types of contracts, such as those involving personal services or fiduciary obligations, may be treated differently in the event of frustration under Indian law.

Frustration and restitution OF CONTRACT

Under Indian law, the doctrine of frustration allows for restitution or adjustment of benefits or payments already received by either party before the frustrating event occurred. This principle of restitution is aimed at preventing unjust enrichment and restoring the parties to their pre-contract positions as far as possible.

The principle of restitution in cases of frustration is recognized by Indian courts based on the principles of equity and fairness, even though it is not explicitly mentioned in the Indian Contract Act, 1872.

Here's how restitution works in the context of frustration of contracts under Indian law, along with an example:

Legal Provisions: While the Indian Contract Act does not explicitly mention restitution, Section 65 provides the basis for restitution in cases of frustration. It states:

"When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it, to the person from whom he received it."

Example: Suppose A enters into a contract with B to rent out A's office space for one year at a monthly rent of ₹50,000. B pays an advance of ₹200,000 as security deposit. After four months, the office building is destroyed by a fire, rendering the contract impossible to perform.

In this case, the contract is frustrated due to the destruction of the subject matter (office space). According to the principle of restitution, the following adjustments may be made:

1. B (the tenant) is entitled to receive a refund of the remaining security deposit for the unexpired period of the contract, calculated on a pro-rata basis.

2. A (the landlord) may be entitled to retain a portion of the security deposit for the four months during which B occupied and used the office space, as B received the benefit of the contract for that period.

3. If B had paid any rent in advance for future months, A would be required to refund the amount paid for the remaining period after the frustrating event occurred.

The aim of restitution is to ensure that neither party is unjustly enriched or suffers an unfair loss due to the frustration of the contract. The court may determine the appropriate adjustments and restitution based on the specific circumstances of the case and the principles of equity and fairness.

It's important to note that the application of the restitution principle in cases of frustration is subject to the interpretation of the courts and may vary based on the specific facts and circumstances of each case.

Cases on frustration

National Agricultural Coop. Mktg. Federation of India v. Alimenta S.A. (2020)

Details of the situation

In this particular instance, a contract was executed between the National Agricultural Coop. Mktg. Federation of India (NAFED) and Alimenta S.A. The terms of the agreement stipulated that a specified quantity of goods would be supplied to Alimenta by NAFED. Unfortunately, as a result of the cyclone, the delivery of the commodity was incomplete. The contract was extended and a clause was included to allow for the delivery of the remaining quantity in the following year.

As a result of a rise in commodity prices caused by crop failures in the US, the government made the decision to halt commodity exports. Consequently, the contract could not be fulfilled, leading the other party to pursue arbitration to address the contract breach. The arbitral award was ruled in favour of Alimenta and subsequently converted into a decree by the High Court. However, feeling dissatisfied with the decision, NAFED decided to challenge it in the Supreme Court.

Matters at hand in the case

1. Was there a default on the part of NAFED?
2. Does the contract become void because of government restrictions?

Ruling of the Court

In this case, the Supreme Court established a clear differentiation between contingent contracts and contracts that are frustrated. The court noted that in contingent contracts, if the contract becomes impossible to perform due to the circumstances outlined in the agreement, the specified consequences will be enforced. However, if the circumstances that made it impossible to fulfil the contract are not specified in the agreement and are beyond the control of the parties, it results in the doctrine of frustration. It was determined that in this particular case, the contract was entirely contingent on the government's export policy, making it fall under the purview of Section 32 of the Indian Contract Act, 1872. The contract between the two parties became null and void, resulting in their discharge from their contractual obligations.

R. Narayanan v. Government of Tamil Nadu (2021)

Details of the case

In this particular case, the petitioner happened to be a bidder and licensee of one of the shops that he had acquired from the respondent. Additionally, he made the payment for the licence fee a year ahead of time. However, as a result of the COVID-19 outbreak, he faced financial setbacks and was unable to renew the licence as stipulated in the contract. He submitted a request to have the licence fee waived for the duration of the lockdown and partially for the following period.

Matters at hand in the case

Will the lockdown resulting from the outbreak of COVID-19 be considered a force majeure event?

Ruling of the court

When addressing the matter, the Madras High Court explained the difference between a force majeure clause and the doctrine of frustration. The court noted that frustration can arise when circumstances beyond the control of the parties render the contractual obligations impossible to fulfil, resulting in the agreement becoming void. However, in the event of force majeure, one party is relieved from fulfilling their obligations while the contract remains in effect. The party invoking the force majeure clause must promptly notify the other party. Thus, the court ruled that the lockdown period qualifies as a force majeure event, resulting in the petitioner being exempt from paying the licence fee for that period. This decision was made in the case of Energy Watchdog v. Central Electricity Regulatory Commission (2017).

Details of the situation

In this instance, Gujarat Urja Vikas Nigam Limited (GUVNL) has issued a public notice to invite proposals for power supply. Haryana Utilities also followed a similar approach. Both parties chose Adani Enterprises to supply power and entered into a formal agreement. As a result of an increase in the cost of exporting coal from Indonesia, Adani Enterprises submitted a petition to the Central Regulatory Electricity Commission. They requested to be released from their contractual obligations based on the doctrine of frustration. The commission's refusal was challenged in the Supreme Court.

Matters at hand in the case

Is the doctrine of frustration applicable in this case?

Ruling of the court

The court in this case ruled that the increase in prices of coal exports from Indonesia does not render the contract impossible to fulfil, therefore the contract cannot be considered frustrated. There are other ways to meet the obligations stated in the agreement, making the doctrine of frustration irrelevant in this situation.

Discharge by expiry of time of limitation

In India, contracts can be discharged by the expiry of the period of limitation prescribed under the Limitation Act, 1963. This Act sets out the time limits within which legal proceedings must be initiated for various types of claims, including claims arising from contracts.

The period of limitation for filing a suit for breach of contract is generally three years from the date when the cause of action arose. The cause of action is the event or circumstances that give rise to the right to seek legal remedy or relief.

In the context of contracts, the cause of action typically arises on the date when the breach of contract occurs or when the breach is discovered. For example, if a party fails to perform their contractual obligations on a specific date, the cause of action arises on that date, and the three-year limitation period begins to run from that date.

Once the period of limitation expires, the aggrieved party may lose the right to seek legal remedies for the breach of contract. The other party can raise the defense of limitation to bar the claim from being entertained by the court.

However, it is important to note that there are certain exceptions and circumstances where the period of limitation may be extended or suspended. For instance, if the aggrieved party was a minor or of unsound mind at the time the cause of action arose, the limitation period may be extended. Similarly, if the parties have acknowledged the debt or made a part payment towards the contractual obligation, the limitation period may be renewed or extended.

It is also worth mentioning that the period of limitation varies for different types of contracts and claims. For instance, the limitation period for filing a suit for specific performance of a contract is three years, while the limitation period for filing a suit for the possession of immovable property based on title is twelve years.

In summary, the expiry of the period of limitation prescribed under the Limitation Act, 1963, can lead to the discharge of a contract in India, as the aggrieved party may lose the right to seek legal remedies for breach of contract after the prescribed time limit has elapsed.

Discharge of contract by agreement and novation and Indian contract law

Under Indian contract law, a contract can be discharged by agreement and novation, which are two distinct but related concepts.

1. Discharge by Agreement: An agreement between the parties to a contract can lead to its discharge. This can happen in the following ways:

a. Mutual Consent or Rescission: The parties may mutually agree to terminate the contract by their free consent. This is known as rescission of the contract. When both parties agree to cancel the contract, it is discharged.

b. Remission: One party may agree to remit or give up their rights under the contract, thereby discharging the contract. This is known as remission.

c. Waiver: If one party waives or abandons their rights under the contract, it may lead to the discharge of the contract.

d. Alteration or Modification: The parties may agree to alter or modify the terms of the contract, effectively discharging the original contract and creating a new one with the modified terms.

2. Discharge by Novation: Novation is a specific method of discharging a contract by substituting it with a new contract. It involves the following elements:

a. A new contract is formed between the parties. b. The new contract is substituted for the existing contract. c. The existing contract is thereby discharged. d. There is an agreement between all parties to the new contract.

In novation, the original contract is extinguished, and a new contract takes its place. The new contract may involve the same parties or different parties, but it must be a valid contract on its own.

For novation to be valid under Indian contract law, the following conditions must be satisfied:

i. All parties must agree to the novation.
ii. The new contract must be valid and enforceable.

iii. The original contract must be discharged and replaced by the new contract.
iv. There must be a consideration for the new contract.

It is important to note that novation should not be confused with an assignment of a contract, where the rights and obligations under the contract are transferred to a third party without discharging the original contract.

Discharge of contracts by agreement and novation is recognized under the Indian Contract Act, 1872, and various judicial precedents have laid down the principles and requirements for these modes of discharge.

Discharge of contract by rescission and alteration in India and law

Under Indian contract law, a contract can be discharged by rescission and alteration, which are related but distinct concepts.

1. Discharge by Rescission: Rescission is the cancellation or undoing of a contract by the parties involved. It involves putting the parties back in the same position as they were before the contract was formed. The contract is treated as if it never existed. Rescission can occur in the following ways:

a. By mutual consent: If both parties agree to rescind or cancel the contract, it can be discharged by mutual consent or agreement. This is known as rescission by mutual consent.

b. By breach of contract: If one party commits a breach of a vital term of the contract, the aggrieved party may have the option to rescind or terminate the contract. This is known as rescission for breach.

c. By misrepresentation or fraud: If a party has induced the other party to enter into the contract by misrepresentation or fraud, the aggrieved party may have the right to rescind the contract.

d. By impossibility of performance: If the performance of the contract becomes impossible due to circumstances beyond the control of the parties, the contract may be discharged by rescission.

For rescission to be valid under Indian law, certain conditions must be met, such as the party seeking rescission must act promptly, restore any benefits received under the contract, and not have affirmed the contract after becoming aware of the grounds for rescission.

2. Discharge by Alteration: Alteration refers to the modification or change in the terms of an existing contract by mutual agreement between the

parties. When the parties agree to alter or modify the terms of the original contract, the original contract is discharged, and a new contract with the altered terms comes into existence.

The following conditions must be met for a valid alteration of a contract under Indian law:

a. Mutual consent: Both parties must agree to the alteration or modification of the terms. b. Lawful consideration: There must be a lawful consideration for the altered terms. c. Legality: The altered terms must be legal and not violate any laws or public policy.

It is important to note that a unilateral alteration or modification of the terms by one party without the consent of the other party is not valid and does not discharge the original contract.

The principles of rescission and alteration are governed by the Indian Contract Act, 1872, and various judicial precedents have further clarified and interpreted these concepts. The specific circumstances and requirements for rescission and alteration may vary depending on the nature of the contract and the facts of the case.

The effect of - remission and waiver of performance of contract under Indian contract law

Under Indian contract law, remission and waiver are two distinct concepts that can have the effect of discharging a contract. Let's understand their effects:

1. Remission: Remission refers to the act of accepting a lesser performance or obligation than what was originally agreed upon in the contract. It is a form of discharge by agreement, where one party agrees to remit or give up a part of their rights under the contract.

Effects of Remission: a) It discharges the contract to the extent of the remission. b) The remaining part of the contract remains enforceable. c) The party remitting their rights cannot later revoke the remission without the consent of the other party. d) Remission must be supported by valid consideration or be done by way of a gift or natural love and affection.

2. Waiver: Waiver is the voluntary and intentional relinquishment or abandonment of a known right or claim under the contract. It is a unilateral act by one party that discharges the other party's obligation to perform a part or whole of the contract.

Effects of Waiver: a) It discharges the other party's obligation to the extent of the waiver. b) The waiving party cannot later revoke the waiver and demand performance of the waived obligation. c) A waiver can be express (explicitly stated) or implied (inferred from conduct). d) A waiver must be communicated to the other party and is generally irrevocable once communicated. e) A waiver may be temporary or permanent, depending on the circumstances and the intention of the parties.

It is important to note that both remission and waiver require a clear and unambiguous intention to discharge the contract, either partially or wholly. They are based on the principles of agreement and consent between the parties.

Additionally, the Indian Contract Act, 1872, does not explicitly mention remission and waiver, but their effects are recognized and upheld by judicial precedents. The courts consider the specific circumstances and the conduct of the parties to determine whether a remission or waiver has occurred and its scope.

In summary, remission and waiver are distinct legal concepts that can discharge a contract, either partially or wholly, by agreement or unilateral act, respectively. They provide flexibility in contract performance and allow parties to modify their obligations under certain circumstances, subject to the principles of lawful consideration, consent, and intention.

Effect of extension of time under Indian contract law

Under Indian contract law, the extension of time for the performance of a contract can have certain effects. The extension of time is typically granted when one party is unable to fulfill their contractual obligations within the originally agreed-upon time frame due to unforeseen circumstances or difficulties.

The effects of an extension of time under Indian contract law are as follows:

1. Prevention of breach: When an extension of time is granted, it prevents the party who was unable to perform their obligations within the original time frame from being considered in breach of the contract. This allows the contract to continue without being terminated or discharged due to non-performance.
2. Modification of the original contract: The granting of an extension of time is considered a modification or alteration of the original contract. It effectively changes the timeframe for performance stipulated in the original contract.

3. Consideration may be required: In some cases, the party seeking an extension of time may be required to provide fresh consideration to the other party for granting the extension. This consideration can be in the form of additional payment, revised terms, or other benefits.
4. Consent of both parties: For an extension of time to be valid and enforceable, it generally requires the consent of both parties to the contract. A unilateral extension granted by one party without the agreement of the other may not be legally binding.
5. Reasonableness of the extension: The extension of time granted should be reasonable and proportionate to the circumstances that caused the delay in performance. An unreasonably long extension may be considered unjustified and may not be upheld by the courts.
6. Impact on other terms: The extension of time may also have an impact on other terms or conditions of the contract, such as the payment schedule, penalties, or warranties. These associated terms may need to be adjusted or modified accordingly.

It is important to note that the specific effects of an extension of time may vary depending on the nature of the contract, the circumstances leading to the delay, and the terms agreed upon by the parties. The Indian Contract Act, 1872, does not explicitly address the issue of extensions of time, but the courts have recognized and upheld the validity of such extensions, provided they are granted with the consent of both parties and are reasonable under the circumstances.

In summary, the extension of time under Indian contract law primarily serves to prevent a breach, modify the original contract, and provide flexibility in performance, subject to the consent of both parties and the reasonableness of the extension granted.

Accord and satisfaction under Indian contract law

Under Indian contract law, the concepts of accord and satisfaction are recognized as a method of discharging a contract.

Accord and satisfaction refer to a situation where one party (the debtor) offers something other than what is originally agreed upon in the contract, and the other party (the creditor) accepts the substitute performance in full satisfaction of the original claim or obligation.

The key elements of accord and satisfaction under Indian law are as follows:

1. Accord (Agreement):

- There must be a valid agreement (accord) between the parties to substitute the original contractual obligation with a new one.
- The accord can be express (written or oral) or implied from the conduct of the parties.

2. Satisfaction:
    - The new obligation or performance agreed upon in the accord must be executed or performed in full (satisfaction).
    - The satisfaction must be accepted by the creditor as full and final discharge of the original obligation.
3. Consideration:
    - The accord must be supported by valid consideration, which can be the performance of the new obligation itself.
    - The consideration need not be equal to the original obligation but must have some value in the eyes of the law.
4. Intention to Discharge:
    - There must be a clear intention by both parties to fully discharge the original obligation upon satisfaction of the new obligation.
    - This intention can be express or implied from the circumstances.
5. Existing Dispute or Unliquidated Claim:
    - Accord and satisfaction typically arises in the context of an existing dispute or an unliquidated claim (where the amount owed is uncertain or disputed).
    - In the case of a liquidated claim (where the amount is certain and undisputed), the creditor cannot be compelled to accept a lesser amount unless there is a fresh consideration.

The effects of accord and satisfaction under Indian law are:

1. Discharge of the original obligation: Upon satisfaction of the new obligation agreed upon in the accord, the original contractual obligation is discharged and extinguished.
2. Creation of a new obligation: The accord creates a new obligation, which, once satisfied, discharges the original obligation.

3. Finality: If the accord and satisfaction are valid, neither party can revive the original obligation or claim unless there is fraud, duress, or misrepresentation.

The principles of accord and satisfaction are recognized under the Indian Contract Act, 1872, and have been further developed through judicial interpretations. It is a useful method for resolving disputes and settling claims by mutual agreement, while also providing flexibility in contract performance.

Hochster v. De La Tour

Background

In the present case, the defendant entered into a contract with the plaintiff to serve as a courier and accompany them to Europe. However, before to the start of the contract, the defendant notified the plaintiff of their decision to withdraw from the agreement and no longer require their services. The defendant declined the plaintiff's request to engage his services and terminated the contract before to the contract's specified termination date. The plaintiff initiated legal action against the defendant for a violation of their agreement.

Problems Enclosed within a frame

1. Does a breach of contract occurring before the scheduled start date result in damages for the other party, and are they entitled to receive compensation?
2. Is it possible to file a lawsuit before the contract's due date if one party refuses to fulfil their obligations under the contract?

Plaintiff's assertions

The plaintiff filed a claim for anticipatory breach of contract against the defendant due to the defendant's revocation of the agreement. The plaintiff argued that the defendant terminated the contract before to the deadline and should be held responsible for compensating him for the losses incurred as a result of the breach.

Defendant's Counterarguments

The defence said that the plaintiff is precluded from initiating the lawsuit prior to the contractual deadline. He stated that the commencement of the due date is still pending, so the plaintiff is unable to initiate a lawsuit against him until the deadline for executing the contract arrives.

Evaluation

The court ruled that if a party refuses to meet the conditions of a contract even before the contract's beginning date, they will be held responsible for breaching the contract. It is not a valid argument to claim that the commencement date is still pending. The defendant's assertions were dismissed, contending that the party must be prepared to initiate the contract at any point prior to the due date, and no legal action can be initiated prior to that time. Furthermore, it has been said that if one party chooses to withdraw from the responsibilities outlined in the contract, it is understood that the obligations of the second party are automatically terminated. The reason for the pending due date cannot be disclosed if the party is able to file a lawsuit as soon as they terminate the contract and refuse to fulfil their promise.

Amar Nath filed a case against Bharat Heavy Electrical based on certain facts. In this instance, the appellant performed construction services for the respondent corporation, with the understanding that payment would be made upon completion of the work. The appellant completed the task and received payment from the respondent. However, the appellant was dissatisfied with the amount received and acknowledged receipt of the payment under protest, expressing dissatisfaction with the amount provided.

Problem Framed

Does accepting the sum by the appellate under protest result in the termination of the contract?

Plaintiff's assertions

The individual acknowledged the payment by providing a receipt, but expressed dissatisfaction with the amount received. They believe they should be compensated with the appropriate amount for the task they performed for the respondent.

Defendant's Counterarguments

The defendant contended that he remitted the sum to the appellant, who acknowledged receipt, so fulfilling the contractual obligations and discharging the contract.

Evaluation

The court determined that the sum accepted by the appellate was done so with reservations and not fully accepted. Therefore, the contract cannot be considered terminated and it still needs to be fulfilled according to the original terms and conditions. In order for a contract to be considered validly discharged, there must be no conditions or objections to the provisions of the contract. It should be acknowledged in its current state.

Comparison between D.D.A. and Joint Action Committee based on factual information:

The plaintiff in this case is the Delhi Development Authority, an organisation responsible for constructing and allocating residences to various groups of people through six distinct schemes, each with varying costs for the flats. The apartments in South Delhi were priced higher and an additional fee of 20% was imposed on them. The defendant argued that the cost for each region was calculated differently, based on the location of the flat. The defendant considered this to be discriminatory and disputed the demand for payment of the current cost from the defaulting registrants. The appellant further sought to modify the terms of the allocation without providing notice to the recipient of the allocation.

Problems Framed 1. Is the Development Authority's decision to impose a 20% surcharge on registrants from South Delhi justified?

Is the demand for payment of the current fee, as assessed by the Delhi Development Authority, justified for the defaulter registrants?

Plaintiff's assertions

The plaintiff argued that the costs based on the specific area were reasonable and that the additional fee imposed by them was in accordance with the area.

Defendant's counterarguments

The defendant argued that the charges imposed by the appellate were unjustified and were not communicated to them when they entered into the contract. They claimed that the charges were added through alteration, resulting in a new contract that was not mutually agreed upon by both parties, therefore rendering it invalid.

Evaluation

DDA's position is that the relationship between the parties is derived from the contract. Consequently, both parties were obligated to comply with the terms and conditions. The terms and circumstances of the contract can unquestionably be changed or adjusted. However, unilateral actions cannot be taken unless there is a provision in either the contract or the law. The court deemed the imposition of a 20% surcharge and the construction costs incurred through an office order after allotment to be unreasonable and inappropriate, and subsequently dismissed the case. The court concluded that the D.D.A. could not impose new terms of the contract on the allottees, as the supposed office orders it relied on were not supported by any Statute.

United India Insurance Co. Ltd. v MKJ Corporation

This case established the concept of novation in contracts and outlined the various methods by which it can be executed. In this case, the contract was terminated through novation, resulting in a modification of the conditions. In this instance, a group of employees went on strike, leading to the damage of the leather they were handling. The defendant filed a lawsuit against the appellant, seeking compensation for the damage caused by the employees' strike. Issues Presented: 1. Whether the modified conditions resulting from the novation of the contract were legally valid?

Plaintiff's assertions

There was little discussion concerning the employees' strike to demand compensation, and the plaintiff argued that there was no mutual agreement to include this condition in the contract, as it was not included originally. The contract did not include leather spoiling caused by a strike as a criterion for claiming damages, and they were not obligated to pay for it.

Defendant's Counterarguments

The defendant's argument was that their contract implicitly specifies the conditions under which they can claim damages for product spoiling, and so they are entitled to compensation for the damages they incurred as a result of the strike.

Evaluation

The court determined that, even if acting in good faith and in accordance with the contract, one party cannot make any significant changes to the agreement without the approval of the other party. Alteration of a contract refers to the modification of one or more terms of the contract by the mutual agreement of the parties involved. No modifications can be made to the contract unless both parties involved in the contract freely agree to them. Therefore, the defendant's claims were rejected and they were not awarded any damages.
The case of Hart v Art V O'Connor involves the following facts:
In this instance, the plaintiff engaged in reasonable talks and purchased the defendant's farmland with the assistance of the defendant's solicitor, without being aware of the defendant's advanced age and mental incapacity. After the plaintiff purchased and enhanced the land, the defendant's brother assumed control of the trustee estate and invalidated the agreement between the defendant and the plaintiff. The defendant's brother achieved success in the trial that the plaintiff appealed.

Problem defined

Whether the contract entered into with the mentally unstable defendant, without knowledge of his condition, was legally binding and in accordance with the constitution.

Plaintiff's assertions

The plaintiff contended that due to the defendant's undisclosed condition, the contract lacked validity in terms of constitutionality and was entered into with fraudulent purpose.

Defendant's counterarguments

The defendant was represented by someone who was aware of his true status at the time the transaction was initiated. There was no fraud involved, and the deal was not unreasonable.

Evaluation

The court ruled that the negotiation and contract, made in good faith but without the defendant's knowledge of their condition, were voidable. The court determined that the defendant lacked the capacity to enter into a contract and was not competent to do so. However, since the defendant appeared to be of sound mind and was represented by someone who knew their condition, the contract was deemed valid. Therefore, the contract cannot be considered unfair based on the party's knowledge. The deal is not fraudulent and it is not unjust.

Central London Property versus High Trees House

The defendant entered into a lease agreement with the plaintiff for a property containing multiple flats. Due to the ongoing World War 2, the occupancy of the flats was not fully achieved. To address this, the defendant and the plaintiff reached an agreement to pay half of the lease amount. However, the agreement did not specify the deadline for paying the half amount. Once the war came to an end and the flats were completely acquired, the plaintiff insisted on receiving full payment of the rent. However, the defendant countered by arguing that the agreement did not specify a specific period of time, which the plaintiff disputed. It was determined that based on the available evidence, the tenant was obligated to pay half of the rent until the war concluded, at which point the full rent would be due from the defendant. According to Denning J, the cases demonstrated that a promise made by someone who knew it would be acted upon by the recipient could be enforced even without any consideration. It was about time for this to be acknowledged as leading to an estoppel.

The case of Nash v Inman

In this particular case, the plaintiff happened to be a tailor who provided goods (specifically waistcoats) to the defendant, who, it is worth noting, was a minor at the time of acquiring said clothing. After receiving the waistcoats, the minor declined to make payment for them. The tailor filed a lawsuit to recover the amount owed to him. The issue at hand was whether the coats that were provided to a minor could be considered a necessary item for the minor, and whether the contract could be legally enforced. The plaintiff failed to establish that the clothes delivered to him were essential, resulting in a judgement in favour of the defendant and rendering the contract null and void from the beginning. “A baby, similar to someone who is mentally unstable, lacks the ability to enter into a formal purchase agreement. However, if a person provides essential goods or services to the baby or mentally unstable individual, the law will recognise an implied obligation to reimburse them for their assistance. This obligation can be enforced against the assets of the baby or mentally unstable person.”

The case of Bowdell v Parsons

In this particular instance, the plaintiff and the defendant have entered into a contractual agreement for the exchange of goods, with the understanding that the transaction will occur at a later date. In this case, the defendant failed to disclose to the plaintiff that they had sold the goods to another individual instead of fulfilling their agreement to sell them on a future date. The plaintiff filed a lawsuit against the defendant, claiming that they had violated the agreed-upon terms. In response, the defendant argued that the due date had not yet arrived. The court ruled that in the event of a person entering into a contract to sell and deliver goods on a future date, and subsequently selling and delivering them to someone else, they would be held immediately liable for infringement. The party to whom the goods were originally intended to be delivered can then take legal action against the party in question.

H Dakin & Co LTD V Lee

In this particular case, the plaintiff and the defendant entered into an agreement wherein the plaintiff made a commitment to construct the defendant's house in accordance with the specifications outlined in the agreement. The plaintiff also agreed to diligently follow all instructions provided by the defendant throughout the construction process. The plaintiff did not fully comply with the conditions set by the defendant for the construction of the house. As a result, the defendant refused to pay for the incomplete work. The plaintiff requested payment for the work they had partially completed. The court ruled in favour of the builder, stating that they were entitled to receive the contract price, with deductions for any items that did not meet the defendant's specifications.

Condor v The Baron Knights

In this case, the claimant and the defendant entered into a contract where the claimant agreed to perform for the band every night for 5 years. However, the claimant experienced a mental breakdown, and their doctor advised against performing more than 4 nights per week due to potential health consequences. Due to the claimant's inability to perform more than 4 nights a week, the band decided to dismiss him and void the contract, which originally required him to play for 7 nights a week. The claimant filed a lawsuit against the defendant, arguing that the termination was unjust and that he should be kept on board by the band. The court ruled that the claimant's inability to fulfil the contract's conditions, due to his medical conditions, resulted in the frustration of the contract. As a result, his claim was rejected.