



NALSAR UNIVERSITY OF LAW

HYDERABAD

Presentation

on

FUNDMENTALS OF CONTRACTS

(General Principles of Contract)

DEFENCE CONTRACTS AND TENDERS

by

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1. Introduction to Law of Contracts

Importance of Law of Contracts

Nature and **Scope**

Basis of the Law of Contract (Intention)

Main Purpose of Law of Contracts (Element of Definiteness)

Intention to Contract: (There must be Common Intention)

Legislative Limitations on the **Freedom of Contracts**

Kinds of Promises (Express; Implied; Reciprocal; Alternative Promises)

Classification of Contracts (Based On: Validity; Formation; Performance)

2. Basic Definitions and Concepts

Definitions

1. **Proposal Sec. 2 (a):**

“When one person signifies to another his willingness to do or abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence”

2. **Promise (Sec. 2 (b):**

“When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise.

Definition of a Valid Contract (Section 10)

All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

*Nothing herein contained shall effect any law in force in India, and not hereby expressly repealed, by which any contract is required to be made in **writing** or in the presence of **witnesses**, or any law relating to the **registration** of documents”.*

Essentials of a Valid Contract

1. Proposal and Acceptance
2. Legal Relationship
3. Lawful Consideration
4. Capacity of Parties
5. Free Consent
6. Lawful Object
7. Certainty of Terms
8. Possibility of Performance
9. Void Agreements
10. Legal Formalities

3. Proposal (Offer)

Section 2 (a)

Synopsis:

- i) Definition
- ii) Modes of an Offer
- iii) Rules
- iv) Kinds of an Offer
- v) Exceptions
- vi) Lapse of an Offer
- vii) Standard Form of Contracts

i) Definition:

“When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal”

ii) Modes of an Offer:

- i) By Express words spoken
- ii) In Writing
- iii) By Conduct

iii) Legal Rules as to Offer

- i) Offer must be capable of creating legal relationship
- ii) The terms of the offer must be definite and certain
- iii) The offer must be communicated
- iv) The Offer may be conditional
- v) The Offer may be general or specific
- vi) Offer must be made with a view to obtaining assent
- vii) Offer must not thrust the burden of acceptance

iv) Kinds of an Offer

- i) General Offer
- ii) Specific Offer
- iii) Standing Offer

v) Exceptions:

- i) A mere declaration of intention
- ii) An invitation to make an offer
- iii) Price List offered by Seller
- iv) Quotations
- v) Tenders

☐ Exceptions: (Contd..)

- vi) Advertisements
- vii) Display of Goods in Showroom
- viii) Railway Time-table
- ix) Cross Offers
- x) Auction Sale

vi) Lapse of an Offer

- i) By Notice
- ii) By Lapse of Time (If Time Stipulated); (If Time Not Stipulated)
- iii) By Failure to fulfil a Condition Precedent
- iv) By Death
- v) By Insanity
- vi) By Counter-Offer
- vii) By Rejection

**vii) Standard Form of Contracts
Rules Evolved by the Courts:**

- i) Notice should be reasonable
- ii) Notice should be simultaneous with the contract
- iii) Theory of Fundamental Breach
- iv) Exemption Clauses to be interpreted liberally not strictly
- v) Liability in Contract and Tort (Tort means a Civil Wrong)
- vi) Laying down Unreasonable Terms and Conditions
- vii) Binding nature of contract, effecting Third Parties

4. Acceptance (Promise)

Section 2 (b)

☐ Synopsis:

- i) Definition
- ii) Modes of an Acceptance
- iii) Rules
- iv) Exceptions
- v) Whether Silence amounts to an Acceptance?

i) Definition:

“When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise”

Note: “Offer” alone or “Acceptance” alone are ‘inactive’, ‘inert’ and ‘ineffective’.

ii) Modes of an Acceptance

- i) By Oral
- ii) By Writing
- iii) By Conduct

iii) Legal Rules as to Acceptance

- i) Acceptance must be absolute and unqualified
- ii) Acceptance must be expressed in some usual manner
- iii) Acceptance must be by the party named in the offer (Specific)
- iv) Acceptance must be communicated to the Offeree
- v) Acceptance must be made within a reasonable time
- vi) Acceptance cannot be in ignorance of an Offer

- iv) Exceptions:** (Means 'without communicating acceptance, still there (Section 8) is an acceptance)
Acceptance need not be express, but can be inferred from under the following circumstances:
- i) **Express Conduct:**
 - a) By Performance of Conditions
 - b) By Acceptance of Consideration
 - c) By Accepting a Benefit or Service
 - ii) **Implied Conduct:**
 - a) Acceptance of an offer by Conduct
 - b) Acceptance communicated to an Agent
 - c) Waiver of the communication of Acceptance
 - d) Acceptance by Post

☐ **Q. Whether Silence amounts to an 'Acceptance'?**

☐ **A.** In the following instances silence may be indicative of assent to the proposal:

- i) Where the offeree having reasonable opportunity to reject the goods or services derives any benefit from them, it will amount to an acceptance.
- ii) In view of the past dealings, the offeree has given the proposer, reason to understand that the silence was intended by the offeree as a manifestation of assent, and the proposer does so understand.

5. Communication of Proposal, Acceptance and Revocation

Synopsis:

- i) Meaning of Communication
- ii) Rules
- iii) Various Means of Communication

i) Meaning of Communication

In an Offer and Acceptance the words 'signify' connotes the 'assent' of the parties. The words "signifies to another" clearly imply that the willingness or the assent as the case may, must be brought to the notice of the other. In other words, **"it is communicated to the other"**.

This **"communication"** may be by Post, Telegram, Telephone, Telex, SMS, Email etc.

ii) Rules: *(consensus-ad-idem)= (unity of minds)= communication*

Rule-1: *The communication of an offer is complete when it comes to the knowledge of the person to whom it is made.*

Rule-2: (a) **As against the Proposer:** *The communication of acceptance is complete as against the proposer when it is put in a course of transmission to him so as to be out of the power of the acceptor.*

(b) **As against the Acceptor:** *The communication of an acceptance is complete as against the acceptor when it comes to the knowledge of the parties.*

Rule-3: Communication of Revocation, when complete:

- (a) As against the person who makes it*
- (b) As against the person to whom it is made*

Rule-4: Revocation of a Proposal:

A proposal may be revoked at any time before the communication of its acceptance is complete against the proposer, but not afterwards.

Rule-5: Revocation of an Acceptance:

An acceptance may be revoked at any time before the communication of the acceptance is complete as against but not afterwards.

iii) Various Means of Communication:

- a) Post
- b) Telephone
- c) Telex
- d) SMS
- e) Email

MODULE-2

6. Competency of Parties to a Contract

7. Free Consent

MODULE-2

6. **Competency of Parties to a Contract:**

Definition

Rules

Exceptions:

Minor

Unsound Mind

Intoxicatedetc.

7. **Consent - Free Consent:**

Rules

Exceptions:

Coercion

Undue Influence....etc.

6. Competency of Parties to a Contract

Competency of Parties to a Contract:

Definition

Rules

Exceptions:

Minor

Unsound Mind

Intoxicatedetc.

Definition & Rules

- Section 10: An agreement becomes a contract if it is entered into between the parties who are competent to contract.
Here capacity means **physical** and **mental capacity**.
- Section 11: Every person is competent to contract who is of **age of majority** according to the law to which he is subject, and **who is of sound mind**, and is not disqualified from contracting by any law to which he is subject.

□ Persons incapable of entering into a contract (Broad Division):

- i) Minor
- ii) Insane
- iii) Disqualified Persons

- ❑ **Section 3 of the Indian Majority Act, 1875:** Majority is 18 Years.

- ❑ **The law regarding Minor's Agreement:**
 - i) Minor's Agreement is void ab initio
 - ii) A Minor can be a Promisee or a Beneficiary
 - iii) No Ratification
 - iv) Claim for Necessaries
 - v) Restitution
 - vi) No Specific Performance
 - vii) No Insolvency
 - viii) Minor as a Partner
 - ix) Minor as an Agent
 - x) Minor's Liability in Tort (Civil Wrong)

□ **Unsoundness:** Unsoundness may arise in the following cases:

- i) Idiocy
- ii) Lunacy
- iii) Drunkenness

□ **Effects of Agreements made by Persons of Unsound Mind:**

- i) Agreements by persons of unsound mind are void.
- ii) But in particular circumstances, there may be an implied condition excusing the party from performance in such a contingency (ex: contract to marry becomes void by insanity).
- iii) However, an agreement entered into by a lunatic for the supply of necessities for himself or for the persons whom he is bound to support is valid as a 'Quasi-Contract'.

☐ **Disqualified by Law:**

- i) Aliens (Foreigners)
- ii) Corporation (Doctrine of Ultravires)
- iii) Professional Incapacity (Advocates-Lis Pendens)
- iv) Insolvency
- v) Convicts (Rights are suspended but not lost)

7. Free Consent

1. Definition
2. Coercion (Section 15)
3. Undue Influence (Section 16)
4. Fraud (Section 17)
5. Misrepresentation (Section 18)
6. Mistake (Sections 21, 22, 23)

- **Section 10:** All agreements are contracts if they are made by free consent of the parties.

- **Section 13:** Defines the meaning of the term 'Consent'
"Two or more persons are said to consent when they agree upon the same thing in the same sense"

- **Section 14:** Stipulates under what circumstances consent is 'Free'.
"Consent is said to be free when it is not caused by:
 - i) Coercion (Sec. 15)
 - ii) Undue Influence (Sec. 16)
 - iii) Fraud (Sec. 17)
 - iv) Misrepresentation (Sec. 18)
 - v) Mistake subject to provisions of Ss. 20, 21, 22.

Coercion

Rules:

1. By “committing” of any act forbidden by Indian Penal Code
(Ex: Adoption)
2. By “threatening to commit” any act forbidden by Indian Penal Code
(Ex: A threatens to kill B, if B does not lend him Rs. 50000-00)
3. By “threatening to detain any property”
(Ex: IT Officer compels A to sell goods to him (IT Officer) without Sales Tax)
4. It is immaterial whether IPC is or is not in force in the place of the coercion is employed

Consequences:

1. Contract can be set aside
2. Can refuse to Perform
3. Can take defence of Coercion

Undue Influence

Rules:

1. Relationship must subsist that one of the parties is in a position to dominate the will of the other.
 2. That the dominant party obtains an unfair advantage over the other;
and
 3. That the dominant party uses his dominant position to obtain an unfair advantage.
- ❑ **Example:** Illiterate lady – Managing Agent – Properties – Sale, Lease, Mortgage etc. – Managing Agent executed a Gift Deed in his favour. Held there is undue influence and the Managing Agent has to return the property to the illiterate lady.
 - ❑ **Effect of Undue Influence:** (i) Contract is voidable; (ii) Contract may be set aside

Fraud

Rules:

1. Parties (done by himself or with the support of other or by his agent)
2. Act of Fraud
 - There must be a representation or assertion; and it must be false.
(Ex: Prospectus doesn't disclose Liabilities)
 - There must be active concealment of fact.
(Ex: Horse – Cracked Hoof-filled up in such a way as to defy defection)
 - A promise made without any intention of performing it.
(Ex: Purchased goods with an intention not to pay)
 - Any other act fitted to deceive.
 - Any such act or omission as the law specifically declares to be fraudulent.
(Ex: Seller bound to disclose defects)

3. Such representation must relate to a fact.
4. The representation must have been made with the knowledge that it is false.
5. The act must have been committed with the intention of inducing the deceived party to act upon it. (Satyam Co. will be taken up by Tata)
6. The act must have in fact deceived the party.
7. The other party must have suffered loss.

☐ Whether silence amounts to 'Fraud'?

General Rule: Mere Silence is no Fraud

Exception:

i) Where silence is deceptive

Ex: B asks S whether the horse is sound and S keeps silent. This is fraud if the horse is unsound.

ii) Where silence is, in itself, equivalent to speech.

Ex: A says to B, "if you do not deny it, I shall assume that the horse is sound." B says nothing. Here B's silence is equivalent to speech.

☐ **Consequences of Fraud:**

- i) Can Rescind the contract within reasonable time.
- ii) May ask for damages.
- iii) May ask for Restitution.
- iv) May insist for performance (as if there was no fraud).
- v) Principal not liable for fraud committed by an Agent.

Misrepresentation

Rules:

1. Unwarranted Assertion
2. Breach of Duty
3. Innocent Mistake (Ship Tonnage- stated as 2800-actual was 3500)

Consequences:

1. **Can avoid the Contract** (i) avoid the contract; (ii) accept the contract, but can insist for in putting the goods as if there was no misrepresentation.
2. **Cannot avoid the Contract**: (i) Party had means of discovering truth; (ii) Representation had not been instrumental; (iii) Party having known the misrepresentation expressly affirms the contract; (iv) Where the interest of the third party intervened

Mistake

Rule:

1. Both the parties should agree to the same thing in the same sense i.e., there should be '***consensus ad idem***'.
2. Mistake may be defines as “**an erroneous (untrue) belief about something**'.

Classification:

1. Mistake of Law (*Ignorance of law no excuse*)
2. Mistake of Fact
 - a) Unilateral Mistake (valid)
 - b) Bilateral Mistake (**Void**)

□ Instances of Mistake:

- i) Mistake as to identity of the person contracting with, where such identity is essential to the contract;
(void)
- ii) Mutual mistake as to existence of a thing **(void)**
- iii) Mistake as to Quality of the subject-matter. **(void)**
- iv) Mistake as to Price **(void)**
- v) Mistake as to Quantity **(Void)**

MODULE-3

- 8. Lawful Consideration
- 9. Lawful Object and Consideration
- 10. Void Agreements
- 11. Contingent Contracts

Module-3

8. Consideration

9. Lawful Consideration and Object:

Cases where consideration and Object is Unlawful in Part
Agreements without Consideration

10. Void Agreements:

- a) Agreements which are Void ab initio
- b) Agreements which are Declared to be Void

11. Contingent Contract

8. Consideration

- ☐ Definition
- ☐ Rules
- ☐ Exceptions
- ☐ Rule: No Consideration No Contract
- ☐ Exceptions
- ☐ What is meant by Privity to Contract?

- **Definition:** *“When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do to or abstain from doing, something, such act or abstinence or promise is called a consideration for the promise”*

Note: an act= which one is legally bound to perform (A engages a Typist-Payment of Salary)

Note: abstinence=forbear from suing (A promises to forbear from suing if B pays the due)

Note: promise= a return promise (P sells a car to Q. P gets money and Q get a car)

☐ Rules

- i) It must move at the desire of the Promisor
- ii) It may from the Promisee or any other person
- iii) It may be past, present or future
- iv) It need not be adequate

v) It must be real and not illusory (=deceptive)

Instances of Good Consideration:

- a) Forbearance to sue (there is a loss to the person who wants to sue, so gets benefit)
- b) Compromise of Disputed Claims
- c) Composition with Creditors

Instances of Consideration not real:

- a) Physical impossibility (Ex: Two parallel lines meeting each other)
- b) Legal impossibility (Ex: Discharging the debt through the Nephew)
- c) Already existing public duty (A promises B Rs. 10000 not to be a witness at trial)
- d) Illusory or Sham Consideration (Ex: Two of the crew deserted ship during voyage)

vi) It must not be illegal, immoral or opposed to Public Policy

☐ **Exceptions:**

- i) Beneficiaries in case of a Trust
- ii) Marriage Settlement
- iii) Family Arrangement
- iv) Acknowledgment or Estoppel
- v) Assignment of Contract (Ex. Holder of NI)
- vi) Contracts entered through an Agent

☐ **Rule: “ *No Consideration No Contract*”**

☐ **Exceptions:**

- i) Natural Love and Affection
- ii) Compensation for Voluntary Services
 - a) Voluntary Services (Ex: A finds Purse of B)
 - b) Legally Compellable Duty (Ex: A supports B’s son)
- iii) Promise to Pay Time-barred Debt
- iv) Agency
- v) Completed Gifts

9. Lawful Consideration and Lawful Object

- ❑ Contracts which are unconscionable(unacceptable), unfair, unreasonable and opposed to public policy **are void**.
- ❑ Moreover an agreement **is invalid** if the object or consideration of the agreement is unlawful.
- ❑ By the expression “Object of an agreement” is meant its ‘**purpose**’ or ‘**design**’.
- ❑ Under **Section 23** of the Indian Contract Act, the consideration or object of an agreement is unlawful, unless: it is **forbidden by law**; or is of such a nature that, if permitted, it would **defeat the provisions of any law**; or is **fraudulent**; or involves or implies **injury to the person or property of another**; or the Court regards it as **immoral**, or **opposed to Public policy**.

1. If it is forbidden by law **(Ex: Promising employment in PSU if paid)**
2. If it defeats the provisions of any law **(Ex: Debtor-No limitation period)**
3. If it is fraudulent **(Ex: A, B and C divides profit obtained by fraud)**
4. If it involves or implies injury to the person or property of another. **(Ex: Debtor agreeing to do manual work for Creditor till debt is written off)**
5. If the Court regards it as immoral or opposed to public policy:
 - a) If the Court regards it as immoral **(Ex: Letting house for Prostitution)**
 - b) If the Court regards it as opposed to Public Policy **(Ex: Dry Cleaning Shop-10% of value will be paid as comp.)**

☐ What is meant by Public Policy?

1. Trading with Enemy
2. Agreements interfering with the administration of justice
 - a) Interference with the course of justice (Ex: Delay in executing court order)
 - b) Stifling Prosecution (Tampering with administration of justice)
(Ex: Naxals case of Karimnagar (A.P.))
 - c) Maintenance and Champerty: (Ex: Aiding – Dividing)
3. Trafficking in Public Offices and Titles: (Ex: Sale of Police Station)
4. Agreements tending to create interest opposed to Duty
5. Agreements in restraint of Parental Rights (Ex: Father, Mother, Son)
6. Agreements interfering with Marital Duties (Ex: Roti Kapada Aur Makaan)
7. Agreements restraining Personal Liberty
8. Agreements in Fraud of Creditors.

☐ **Consequences of Illegality:**

1. An illegal contract however, is totally unenforceable. Out of a base cause no action lies.
2. Thus, in the case of a strictly illegal contract no action would lie – property transferred cannot be recovered, money paid cannot be reclaimed, services rendered need not be paid for.

10. Void Agreements

Meaning of Void Agreements: Agreements which are invalid in the eyes of law and are also not enforceable before the law.

An Agreement may be either:

- a) Agreements which are Void ab initio
- b) Agreements which are Declared to be Void

a) Agreements which are void:

Ex: Agreements by a Minor

Ex: Agreements where both parties are under Mistake

Ex: Agreements where consideration and object are Unlawful

Ex: Agreements the consideration or object is partly Unlawful

Ex: Agreements made without Consideration

b) Agreements declared to be Void:

i) Agreement in Restraint of Marriage

ii) Agreements in Restraint of Trade

Exceptions:

i) Sale of Goodwill (Ex: Sale of Business)

ii) Partner's Agreement (Ex: Partner having Technicality)

iii) Trade Agreements (Ex: Auto Minimum Fare)

iv) Sale of Agent's Agreement (Ex: Agent not to sell other Brands)

iii) Agreements in Restraint of Legal Proceedings

- a) Ex: Prohibiting in proceeding through Court)
- b) Ex: Curtailing Period of Limitation

Exception: Arbitration Clause (should not go to Civil Court)

iv) Uncertain Agreements

v) Wagering Agreements

Exceptions: (i) Shares (ii) Games of Skill (iii) Games of Intelligence

vi) Agreements to do impossible acts (physically or legally)

Ex: A contracts to marry B, being already married to C and being forbidden by law to which he is subject to practice polygamy.

vii) Objects or Considerations unlawful in part:

11. Contingent Contracts

- ❑ **Definition:** A “*contingent contract*” is a contract to do or not do something, if some even, collateral to such contract, does or does not happen.
- ❑ **Ex:** A contracts to pay B Rs. 10000-00 if B’s house is burnt.
- ❑ **Ex:** A contracts to pay Rs. 500-00 if a particular ship arrives.
- ❑ **Hence, a contract is either (i) Absolute or (ii) Contingent or Conditional.**

Essentials:

- i) Event in future
- ii) Event uncertain
- iii) Event collateral

☐ **Rules:**

- i) **The happening of a future uncertain event**
Ex: A contracts to pay a sum of Rs. 5000 when B marries C. C dies without being married to B. The contract becomes void.

- ii) **The non-happening of an uncertain future event**
Ex: A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

- iii) **The happening of an event within a fixed time**
Ex: A promises to pay B a sum of Rs. 5000 if a certain ship returns within a year. The contract may be enforced if the ship returns within the year and becomes void if the ship is burnt within a year.

- iv) The non-happening of an event with a fixed time**
Ex: A promises to pay B Rs. 5000 if a certain ship does not return within a year.
- v) When the event deemed impossible**
Ex: A agrees to pay B a sum of money if B marries C. C married D. The marriage of B and C must now be considered impossible although it is possible that D dies and that C may afterwards marry B.
- vi) Impossible Event**
Ex: A agrees to pay Rs. 5000 if B will marry A's daughter C. C was dead at the time of the agreement. The agreement is void.

MODULE-4

12. Performance of Contract

13. Quasi Contracts

Module-IV

12. Performance of Contracts:

Meaning

By whom contracts must be performed

When Contracts need not be performed

Devolution of Joint Rights and Liabilities

Time and Place for Performance

Time is the essence of the Contract

Appropriation of Payments

Assignment of Contracts

13. Certain Relations resembling those created by Contract (Quasi Contract)

12. Performance of Contract

- **Meaning**
- **Offer to perform – Tender**
- **Requisites of a valid tender:**
 - It must be unconditional
 - Tender must be at a proper time and place
 - Tender must be by a person ready, able and willing to perform
 - Tenderer must give reasonable opportunity for inspection
 - Tender to one is tender to all

□ **By whom contracts must be performed**

1. Personal performance (**Ex:** Personal Skill-Dancer, Singer)
2. Performance by representatives (**Ex:** Principal and Agent)
3. Performance by third persons (**Ex:** Personal Skill Not Involved-Loading)
4. Death of the Promisor (**Ex:** Decided on the basis of Skill and No Skill)

☐ **When contracts need not be performed**

1. Novation
2. Alteration
3. Rescission
4. Remission
5. Waiver
6. Voidable Contract

☐ **Devolution of Joint Rights and Liabilities**

1. Devolution of Joint Liabilities
2. Any one of joint promisors may compel to perform

-
- ❑ Time and Place of Performance (**Ex**: Delivery 8 AM; Godown)
 - ❑ Time is the essence of the Contract (**Ex**: Delivery before 7 AM-Workers)
 - ❑ Appropriation of Payments (**Ex**: Debt-Principal and Interest)
 - ❑ Assignment of Contracts
 - a) By act of parties (**Ex**: Creditor transfers P. Note to his brother)
 - b) By Operation of law (**Ex**: Father purchases house but dies-Mother can get the property from Seller through Court)

13. Certain Relations resembling those Created by Contracts (Quasi Contracts)

☐ Meaning

☐ Rules

1. Necessaries supplied to persons incapable of contracting (minors etc.)
2. Reimbursement of person paying money due to another
3. Obligation of persons enjoying benefit of non-gratuitous act
4. Responsibilities of finder of goods
5. Liability of persons to whom money is paid or thing delivered, by mistake or under coercion

MODULE-5

- 14. Discharge of Contract
- 15. Remedies for Breach of Contract

Module-V

14. Discharge of Contract:

Modes of Discharge of Contract

15. Remedies for Breach of Contract

Difference between Liquidated Damages and Penalty

14. Discharge of Contract (Modes of Discharge of Contract)

- **Meaning of Discharge of Contract**

- **Modes of Discharge**
 - By Performance
 - By Mutual Consent or agreement (novation, alteration, rescission, remission, waiver, merger)
 - By Lapse of Time
 - By Operation of Law
 - By Breach of Contract
 - By Subsequent Impossibility

□ Modes of Discharge

1. **Discharge by Performance:** A contract is said to be discharged when both the parties to the contract perform their respective obligations.
2. **Discharge by Mutual Consent:**
 - i) Novation (**Ex:** Promissory Note-Old Debt-New Debt)
 - ii) Alteration (**Ex:** Quantity ordered 100 Tons-200 Tons)
 - iii) Rescission (**Ex:** Supply Date 1st Jan-Payment Date 1st Feb. Fails to Supply)
 - iv) Remission (**Ex:** Accepting lesser amount to a bigger amount-Cr. & Dr.)
 - v) Waiver (**Ex:** Ordered Old Rice-Supplied New Rice-New Rice Consumed)
 - vi) Merger (**Ex:** Lease Transaction-Lessor-Lessee-Lessee purchases Lessor's House)

3. By Lapse of Time: (**Ex:** Performance – Stipulated Time – Reasonable Time)

4. By Operation of Law

- i) By Death (**Ex:** Where skill is involved)
- ii) By Insolvency (**Ex:** Creditor and Debtor)
- iii) By Merger (**Ex:** Lessor and Lessee –Lessor sells to Outsider)
- iv) By Material Alteration (**Ex:** Agreement is for Tea – Sends Coffee)

5. By Breach of Contract

6. Discharge by Subsequent Impossibility:

Meaning

Modes of Subsequent Impossibility

i) Impossibility existing at the time of formation of contract

a) Impossibility known to the Parties

b) Impossibility not known to the Parties

ii) Impossibility arising subsequent to the formation of contract

- a) Destruction of Subject Matter
- b) Non-existence of a set of things
- c) Death or Personal Incapacity of the Promisor (Skill)
- d) Change of Law
- e) Outbreak of Law

Exceptions to the Doctrine of Subsequent Impossibility:

- a) Difficult of Performance (**Ex:** Route Blocked-but must find alternative)
- b) Commercial Impossibility (**Ex:** Rise in Price/Tax/Transport Charges)
- c) Impossibility due to a failure of a third person on whose work the promisor relied (**Ex:** Textile Co & A; A & B)
- d) Strikes, Lock-outs and Civil Disturbances

15. Remedies for Breach of Contract

☐ Meaning

☐ Various Remedies for Breach of Contract

1. Rescission (party agrees to rescind or breach by one party or under voidable contract)
2. Damages (Liquidated Damages) **(Note: Damages different from Penalty)**
3. Quantum Meruit
4. Specific Performance
5. Injunction
6. Rectification and Cancellation

END SLIDE