

Subject: Legal and Business Environment

Void Agreements

A void agreement is one which is not enforceable by law [sec 2(g)] .Such that an agreement does not give rise to any legal consequences and is void at very starting or very beginning.

The following agreements have been expressly declared to be void by the contract Act:

1.Agreement by incompetent parties.(Sec11).

2.Agreements made under a mutual mistake of fact.(Sec20).

3.Agreements the consideration or object of which is unlawful.(Sec23).

4.Agreements made without consideration (sec25)

5 Agreements the meaning of which is uncertain (sec29)

6.Agreements by way of Wager(Sec30)

7.Agreements contingent on impossible events (Sec36)

8.Agreements to do impossible events(Sec56)

9.Agreements in restraint of marriage (Sec 26)

10.Agreementsin restraint of trade(Sec 27)

11.Agreements in restraint of legal proceedings (Sec 28)

(1).Agreements made by incompetent parties.

Section 10 of the Contract Act requires that the parties must be competent to contract.

Competent to contract is defined in section 11.

Who are competent to contract?

According to sec 11 , every person is competent to contract who is of the age of majority according to law which he is subject,and who is of sound mind,and not disqualified from contracting by any law to which he is subject.

Thus Sec11, declares the following persons to be incompetent to contract:

1.Minors

2.Persons of unsound mind,and

3.Persons disqualified by law to which they are subject.



2.Mistake [Section 20] : Mistake may be defined as an erroneous belief about something.Where the mistake does not defeat consent,but only misleads the parties, section 20 should apply.

So agreements made under q mutual mistake of fact it is void.

3.Agreements the consideration or object of which is unlawful (Sec23)

Consideration need not be of any particular value.A contract may only be enforceable when there is adequate consideration. It should not unlawful.The object of the agreement must be lawful.In other words,it means that the object must not be (a) illegal,(b) immoral or (c) opposed by the public (sec 23).Thus,when a landlord knowingly let's a house to a prostitute to carry on prostitution,he cannot recover the rent through a court of law.

4.Agreements made without consideration (sec25):

In every valid contract consideration is very important.A contract may only be enforceable when there is some consideration.The general rule is that an agreement made without consideration is void .

5.Agreements the meaning of which is uncertain (section29):

Uncertain agreements --Agreements void for uncertainty--Agreements,the meaning of which is not certain,or capable of being made certain,are void

Example:(a) A agrees to sell to B" my white horse for Rs 500 or Rs 1000"there is nothing to show which of the two prices was to be given.The agreement is void.

(b).An interesting illustration is Guthing Vs Lynn(1831):-A horse was bought for a certain price coupled with a promise to give 5 pounds more if the horse proved lucky.The agreement was held to be void for uncertainty.The court had no machinery to determine what luck,bad or good, the horse had brought to the buyer.

6.Agreements by way of Wager or Wagering agreements (section 30):

A wager is an agreement between two parties by which one promises to pay money or money's worth on the happening of some uncertain event in consideration of the other party's promise to pay if the event does not happen.

Thus if A and B enter into an agreement that A shall pay B Rs 100 if it rains on Monday,and that B shall pay A the same amount if it does not rain,it is a wagering agreement.The event may be uncertain either because it is to happen in future or if it has already happened,the parties are uncertain and express opposite views.

Essential of a wagering agreement:-

1.Uncertain Event:-The first thing essential to wager is that the performance of the bargain must depend upon the determination of an uncertain event.

2. Neither party to have control over the event:-

Neither party should have control over the happening of the event one way or the other.

3. Promise to pay money or money's worth:- The wagering agreement must contain a promise to pay money or money's worth.

4. Mutual chances of gain or loss:- Each party should stand to win or lose. An agreement is not a wager if either of the parties may win but cannot lose or may lose but cannot win.

5. No other interest in the event:- No party should have a proprietary interest in the event. The stake must be the only interest which the parties have in the agreement

7. Agreements Contingent on Impossible Events:-

"Contingent agreements to do or not to do anything, if an impossible event happens, are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made" (section 36).

8. Agreements to do Impossible Acts:-

"An agreement to do an act impossible in itself is void". (Sec 56 Para 1)

Example: A agrees with B to discover treasure by magic. The agreement is void.

9. Agreements in restraint of marriage:

Every individual enjoys the freedom to marry and so according to Section 26 of the Contract Act "every agreement in restraint of the marriage of any person, other than minor, is void".

Example: A agrees with B for good consideration that she will not marry C, it is a void agreement.

10. Agreements in restraint of Trade:

Section 27 declares "every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void."

11. Agreements in restraint of legal proceedings; sec 28, as amended by the Contract Act, 1996, says sec 28 renders every agreement in restraint of legal proceedings void.

References :

1) Business Law (6th Edition) : MC Kuchhal and Vivek Kuchhal (Vikas Publishing House, Noida)

2) Indian Contract Act (12th Edition) : RK Bangia (Allahabad Law Agency, Faridabad)

3) Indian Contract Act (12th Edition) : Avtar Singh (Eastern Law Company, Greater Noida)



