

BUSINESS LAW

UNIT 1: The Indian Contract Act, 1872

TOPIC- CONSIDERATION

Consideration

- Consideration is 'quid pro quo' i.e. something in return. It is the price for which the promise of other is bought. As per Sec.25, Agreements without consideration are void.
- Sec.2(d) of the Indian Contract Act defines consideration as follows:" 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 or abstain from doing** ,something, such **act or abstinence** or promise is called a consideration for the promise ."

Thus a valid consideration is one which

- ✓ Must move at the desire of the promisor
- ✓ Must be furnished by promisee or any other person
- ✓ May be past, present or future consideration
- ✓ Must be something of value- it could be an act or an abstinence.

ESSENTIALS OF A VALID CONSIDERATION

1. Consideration must move at the desire of the promisor
 - acts done or services rendered voluntarily\ at desire of third party does not amount to valid consideration(**Durga Prasad vs Baldeo**)
 - it is not necessary that consideration must benefit promisor only, even if it benefits third party, it is absolutely fine.
2. Consideration may move from promisee or any other person
 - It is immaterial as to who furnishes consideration - promisee or third person
 - Even a stranger to the consideration can sue on that contract /promise provided he is party to the contract.(**Chinayya vs Ramayya**).Thus 'privity of consideration' is not an essential condition but 'privity of contract' is.

General Rule-A stranger to a contract cannot sue. Only a person who is party to a contract can sue. Exceptions to this Rule - *Here even a person who is not only stranger to consideration but also stranger to contract can sue.*

- **Where Trust is created**
- **Family Settlement**
- **In case of agency**
- **In case of assignment of rights**

ESSENTIALS OF A VALID CONSIDERATION

3. Consideration may be past, present or future

- Past consideration implies consideration was furnished before the promise was made
- Present consideration means consideration is furnished simultaneously when the promise is made
- Future consideration means consideration will be furnished sometime in future after the promise has been made.

4. Consideration must be something of value

- It need not be adequate , just presence is important
- It may be an act or abstinence
- It must be real
 - ✓ not physically impossible
 - ✓ not legally impossible
 - ✓ not uncertain
 - ✓ not illusory

Forbearance to sue the debtor and Compromise of a pending suit can be regarded as real and valid consideration

Agreement without consideration are void (Sec 25)- No consideration no contract

There are certain situations where even if consideration is absent, still the agreement is perfectly valid. So these can be regarded as exceptions to the rule that 'no consideration no contract' -

- Agreement made on account of natural love and affection (Sec.25(1))(**Rajlakhi Devi vs Bhootnath**)- It must be in **writing** and **registered**; must be made **out of natural love and affection** and **made between parties related to each other** by blood or by marriage.(**Venkatasamy vs Rangasami**)
- Agreement to compensate for past voluntary service (Sec.25(2))- Agreement must be to compensate a person who has *himself* done something for the promisor *voluntarily*.
- Agreement to pay a time barred debt(Sec.25(3))-It must be in writing.
- Completed gift
- Contract of agency
- Remission by the promisee
- Contribution to charity (**Kedar Nath vs Gorie Mohammad; Abdul Aziz vs Masum Ali**)