

Indic Legal Law Journal

Volume No. 1

Issue No. 3

August - September 2022

Pages: 1 - 6

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ESSENTIAL ELEMENTS OF A VALID CONTRACT

This Article discusses the essential elements necessary to make a contract valid under the Indian Contract Act, 1872.

INTRODUCTION

The definition of contract is inscribed in section 2(h) of ICA¹, which says that “A contract is an agreement which is enforceable by law.” The term agreement is defined under section 2(e) of the act, which states as, “Every offer and its acceptance or set of offers and its acceptances together with consideration forms an agreement”.

However, Section 10 of the Indian Contract Act clearly mentions about what agreements are valid and can be termed as contract. It states that, “**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**”². The following essentials need to be followed in order to constitute a valid contract.

Thus, the essential components can be summed up as under:

1. There must be an offer and its lawful acceptance.
2. The Agreement ought to be made with the free consent of the parties [Ss. 13-22]
3. The Parties entered into an agreement must be competent to contract. [Ss. 11-12]
4. There must be lawful consideration [Ss. 2(d), 23, 25]

¹ Indian Contract act, 1872.

² Section 10 of the Indian Contract Act, 1872.

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5. There must be a lawful object [Ss. 23-30]
6. It must not be explicitly declared void [S. 10]

Conventions under various laws: Nothing thus contained will affect any law enforced in India, and not thus explicitly revoked, by which any contract is needed to be made in writing in the presence of witnesses, or any law associating with the registration of documents [S. 10], and

7. There must be an intention to enter into a legal relationship.

- **THERE MUST BE AN OFFER AND ITS LAWFUL ACCEPTANCE**

To have a substantial agreement, there must be parties having same consensus (shared consent), ostensibly confirmed by an offer and acceptance. An offer is made by an offeror and communicates that individual's eagerness to go into a specific agreement. The offer is made to a person called offeree.

At the point when the offer is acknowledged or accepted by the offeree, an agreement is shaped. Except if the offer indicates a specific timeframe for acceptance, it is viewed as held open for acceptance for a sensible time. An ad given on paper generally isn't viewed as an offer however only an invitation to offer.

In English law when an acceptance is being made, accordingly as of an offer it can't be denied or dropped later on. In this manner once an acceptance has been given to an offeror it will make both offeror and acceptor officially bound for their promises simultaneously and as once the contract is signed it can't be revoked. This rule acceptance is best shown in the instance of Adams v Lindsell³, Where on Sept. 2, the respondents sent a letter offering to offer products to the offended party. The letter included, getting your answer in course of post. The letter arrived at the offended parties on fifth Sept. Around the same time, the offended parties posted their letter of acceptance which arrived at respondents on ninth Sept. The respondents had sold the merchandise on September 8th, Court while deciding to this case held that a total acceptance emerges on the date when the letter of acceptance is posted at the

³ (1818) 106 E.R. 250.

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appropriate time (for example on Sept. fifth) as once an acceptance is made it will tie both the parties.

In England, when a letter of acceptance is posted, both the offeror and acceptor become unalterably bound. Despite the fact that in India, the offeror gets bound yet the acceptor doesn't get restricted by only posting his acceptance. He becomes bound just when his acceptance goes to the knowledge on the proposer. The time duration between the posting and the conveyance of acceptance can be used by the acceptor for repudiating his acceptance by a speedier correspondence which will overwhelm the acceptance.

- **FREE CONSENT**

Free consent is the second basic condition, depicted in section 10 of Indian Contract Act for an agreement. Section 13 of the act defines consent and states that, at least two people are said to give consent when they agree upon the something in same sense. But, sometimes, it may happen, that one party may agree on something while the other party agrees on that thing forcefully or under misconception,

In such circumstances, parties are not at free consent and therefore, these types of contract would be considered as voidable and not valid. These contracts can be avoided at the option of the party who is under pressure to under misconception to accept the contract. Therefore the consent should be a free consent as defined under section 14 of the Indian Contract Act. Consent is supposed to be so caused free when it would not have been given in the presence of coercion, undue influence, fraud, misrepresentation or mistake.

- **PARTIES MUST BE COMPETENT**

Ability to contract is the third basic condition given in fundamental principles or components required (Provided in Section 10) to meet in cycle of framing legitimately enforceable contract. Section 11 and 12 of Contract act 1972 endorse the law on person's ability to frame a substantial agreement.

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4.1. *Who are Competent to Contract?*

Each individual is equipped to contract who is a major as per the law to which he is subjected to, and who is of sound psyche and isn't excluded from contracting by any law to which he is exposed to. Along these lines, there are three requirements or qualification which an individual needs to satisfy before framing substantial agreement:

4.1. She/he should be of Age of Majority under the law to which he is exposed to.

4.2. She/he should be of sound mind at the hour of creation of agreement.

4.3. She/he should not be precluded from contracting under any law to which he is exposed to.

- **LEGALITY OF OBJECT AND CONSIDERATION**

Consideration is defined under section 2(d) of the Act. It means the value of a contract. In India, privity of consideration is also allowed, that is any outsider or stranger to a contract can also move consideration on behalf of the promisee. A contract is not enforceable if the consideration or its object is illegal or unlawful. Section 23 of the Indian Contract Act talks about the following conditions when object or consideration of a contract is lawful,

Unless the law forbids it; or

Unless it is of such a nature that it would defeat the principles of law, if permitted; or

Unless it is fraudulent; or

If it involves or implies injury to another's person or property; or

It is declared immoral by the court, or is against the public policy.

If any part of a consideration or any objects to a contract is unlawful, then that agreements are declared void under section 24 of the Indian Contract Act.

- **IT MUST NOT BE DECLARED VOID**

The word 'Void' is defined under section 2(g) of the Indian Contract Act. Void Agreements are those agreements which is specifically and expressly declared void under the Indian Contract act. Some of the provisions of the Void Contracts are:

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1. When both the parties are under a mistake regarding matter of fact which is important for the agreement [S. 20].
2. The agreement whose object or consideration is unlawful [S. 23].
3. The agreement whose object or consideration is unlawful in part. [S. 24].
4. Agreements without consideration [S. 25].
5. Agreements in Restraint of marriage [S. 26].
6. Agreements in restraint of trade [S. 27].
7. Agreements in restraint of legal proceedings [S. 28].
8. Agreements Void for uncertainty [S. 29].

- **INTENTION TO ENTER INTO A LEGAL RELATIONSHIP**

Intention to form contract is the one of the most fundamental component in shaping a lawful contract. In spite of the fact that there is any express provision of intention necessary to enter into a legal relationship is given in the act, yet the court has clearly demarcated the necessity of intention needed to form a legal relationship of contract. The court laid down two tests, firstly, it verifies the genuineness of the agreement by seeing the intention of the proposer while making a contract and secondly, it applies reasonable person's test. In English law, it is a well settled principle that, common intention is necessary for a party to enter into a valid contract.

Intention of the proposer- In *Jones v Padavatton*⁴, the daughter following up on her mom's promise left her job and gone to another nation for studying. The mother embraced to bear the costs of her studying. For five long years the girl couldn't finish her education. Conflicts emerged among them and the mother stopped paying her. Court held that, the commitment brought about an agreement, however just for a period sensibly adequate for the girl to complete her education and the time of five years was more than adequate for the reason.

⁴ (1969) 2 All E.R. 616.

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Reasonable person test- The test is objective, not emotional. What makes a difference isn't what the parties had as a main priority, however what a sensible man would think, in the conditions and what their expectation would be. Only in light of the fact that the promisor fights that there, was no intention to make lawful commitments would not exclude him from risk (Carlill v Carbolic Smoke Ball Co. Case⁵). Therefore, the court however, see both the intention of the party at the time of making the contract and what inference a reasonable man could draw from it, depending upon the facts and circumstances of the case.

CONCLUSION

It is necessary to have the essentials elements in a contract. To make a contract legally valid, it is important that all these aforementioned elements are included in it. Therefore, while making a contract, parties should take necessary measures and precautions in order to avoid any risk and should be vigilant enough to see that the other party abides itself with the terms made in the contract.

⁵ (1892) E.W.C.A. Civ 1.