BLOGS

Notes on Contract Law: Types of Contracts

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Introduction

In the **last article on Contract Law**, we revised the basic concepts of contracts, the elements and the stages of a contract.

In this article, we will go into the specifics of types of contracts and offers to gain a more advanced understanding of the topic.

Types of Contracts

A contract can be of several types, based on its elements and characteristics:-

- On the basis of the terms of the contract, a contract can be either express or implied. When the terms of a contract are expressed clearly in either written or oral form, it is known as an express contract.
- When the terms of a contract are assumed and are neither oral nor written, it is known as an implied contract. For example, going to a restaurant, taking a seat and ordering food is an implied contract to pay the bill.
- Enforceability in the court of law is another criterion which divides contracts into void, voidable and valid contracts.
- A valid contract is enforceable in the court, whereas in a voidable contract, one party is capable of terminating the contract while the other party is bound to it.
- A void contract is not enforceable from the beginning and has no validity. A contract to restrain marriage is void, as per the Indian Contract Act, 1872, while a contract in which the

assent of a party is obtained by coercion is voidable at the option of the wronged party.

- A bilateral or two-sided contract is one where both parties are obligated to perform an action for each other, like property sale agreements where one has to transfer possession of property and other has to make the payment.
- In a unilateral or one-sided contract, one party makes a promise to perform an action while not binding another specific party to the contract. An example can be offering a reward to whoever finds a lost wallet. Here, the offeror is bound to reward the person who finds and brings the wallet, while no one else is obligated to find the wallet. These are also known as general offers.

Offer under Contract Law

An offer or a proposal is the first step to enter into a contract. It can be of several types :

A **common type of offer is a general offer**, often seen in television or newspaper advertisements. An extremely famous case on general offers is **Carlill v. Carbolic Smoke Ball Co.**

Carbolic Smoke Ball company promised to pay 100 pounds to anyone who contracted influenza even after taking the medicine according to the instructions. The offer was open to the general public. When Mrs. Carlill contracted influenza even after using the medicine, the company argued in court that the offer wasn't made to a specific person with the intention of enter into legally binding contract. This was refuted by the Court which stated that in general offers whoever fulfils the condition shall have accepted the offer.

Unlike general offers, **specific offers** are made to a specific person, who can accept or reject the offer and communicate the same to the offeror. For example, a film director offering a contract to an actor for a particular role in a movie.

An interesting case regarding this is **Boulton v. Jones**, where Jones used to do business with a person named Brocklehurst.

Boulton acquired Brocklehurst's business without Jones' knowledge. Jones sent an order to the business and consumed the goods believing that he was doing business with Brocklehurst. When he received the bill, he came to know of the change, but refused to pay as he had a set off with Brocklehurst.

The Court held that Jones cannot be compelled to pay, because he intended the offer for a specific person, that is Brocklehurst. Without informing Jones of the change, Boulton had no authority to substitute himself to Jones' disadvantage.

An **express offer** is one where the offer is made with words either spoken or written.

However, in an **implied offer** is assumed and not made with words. An example of an implied offer is calling a fire brigade for their services, as in **Upton v. Powell**.

In this case, a man called a fire brigade mistakenly assuming it was a free service. The court held that since the man asked for the services of the fie brigade and the services were provided, there was an implied promise to pay. This case is also a throwback to the concept of mistake, and in this case since only one party was mistaken, it is not a void contract.

When both parties make an offer to each other, without knowing, it is called a cross offer. If Jack offers Jill to sell his fridge to her for 11 lakhs, and Jill offers to buy Jack's fridge for 11 lakhs at the same time, this coincidence is a cross offer. However, this coincidence is not a valid, because there is no acceptance. For a contract to be valid there has to be an offer and an acceptance of the offer.

This was held in **Tinn v Hoffman**, where two parties made similar offers to each other for buying and selling iron, unknowingly. The court held that since simultaneous acceptance is not valid, the cross offers will not bind the parties.

A **counter offer** is when an offeree modifies the terms of the original offer. It is a rejection of the original offer. This was said by the court in **Hyde v Wench** where Wrench offered to sell a farm to Hyde for 1000 pounds.

Hyde offered to buy it for 950 but Wrench disagreed. After that Hyde agreed to the original offer of 1000 pounds. When Wrench refused to comply, Hyde sued him. The Court held that since counter offer is a rejection of the original offer, Wrench is not bound to sell his land, as Hyde did not agree to the original offer.

You can find the Indian Contract Act here

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