

Essentials of a Valid Contract under the Indian Contract Act, 1872

Arzoo

Department of Law

Vivekananda Global University, Jaipur

Email ID: aarzoo.bishnoi@vgu.ac.in

ABSTRACT: *An arrangement simply described by the Indian Contract Act extends to all sets of commitments that act as reciprocal consideration. If this definition is broken down, then we get two key elements, a commitment and another factor. A commitment is characterized by contract law as an agreed agreement that can be further broken down into two components, i.e. the proposal and approval of that proposal. In view of the above, an arrangement can be said to be the product of a suggestion made by one party and its approval by the other. However, not all arrangement is assumed to be a deal, contrary to belief. Contract law is limited to those obligations which have been willingly created, meaning that those obligations which have been enforced by law or the recognition of trust do not come within its scope and that the arrangements resulting from those obligations cannot be considered as contracts.*

KEYWORDS: *Agreement; Acceptance; Contract; Consideration; Consent; Competent Parties; Intention; Indian Contract Act, 1872; Offer; Section 10.*

INTRODUCTION

A legal deal is a lease. It might be printed, or it might even be oral. By using formal or informal terms, or entirely verbal or spoken, contracts may be written. It is a promise made between two or more parties that makes it possible for the courts to judge. In order to be true, a contract has six essential elements: offering, approval, care and purpose to establish legal relationships, certainty and power. That would be an invalid deal if the key components were not in the arrangement [1]. In a legal contract, the first factor will be the bid. An offer or a commitment or an arrangement must be in the contract and there will be no deal if there is no offer. In the Contracts Act, 1950, the first components must be offered in a contract. It is one of the components that can ensure that the arrangement is legally legitimate or acceptable. It is really necessary in a contract when a bid is made by a side. Between an ad and an alternative, there is a gap in availability. There should be at least two sides or even more to make an offer such that it will be technically worthy of concluding a deal. If the bid is approved, it will represent a legally binding arrangement.

The other party or entity will know what is being negotiated when an offer is being made and what the person or party who made the offer hopes to have in return. When someone goes on a break, lives in a motel, and so on, it's the same. A family has made a deal with a travel agency, for instance, to have a trip in Hong Kong for a few days. By making paperwork for the family that would have to be filled out, the tour agency would build a deal. With the rules and regulations issued by the tour agency business, the family member who fills out the form will have to be explicit. The deal between the family and the tour agency was terminated after it was finished [2]. There should be approval after you have a bid in the negotiation. There should be agreement by the other side or person for a deal to be made. If the other side is clear about the bid, once they are clear about the laws and rules being offered in the deal, there will be an approval. If the parties are either discussing or fighting and have not approved the bid, there will be no deal. The person or group may approve the offer made verbally or spoken out in writing or orally.

A tourist writes to hotel K, for example, asking for updates on the cost and availability of accommodation for the week starting on 15 April 2011. The staff at Hotel K replied to the inquiry saying that the available rooms for that week will cost RM 600 and if the visitor replies within a week with the deposit of RM 100, the space would be assigned to him. If the tourist accepts the bid, then for the tourist and hotel K, the deal has been made [3]. In the deal, attention is also a very necessary factor. Consideration of a deal would mean that anything in exchange would be offered back by the other party. That can be used as a trade between the

promisor and the promisor. In a contract, there should be care in order for it to be technically legitimate. A customer in a fast food restaurant such as McDonalds, for example, orders a fixed lunch which costs RM7.95.

The customer decides to pay RM7.95 for consideration while buying the fixed lunch. Consideration, however, does not pose any risks to on-line holiday contracts. Holiday services offered by the on-line holiday suppliers and even the consideration of offering back anything in return that will ultimately meet with the conditions for consideration of a deal by paying money or also the payment made by the holiday makers [4].

DISCUSSION

Getting this aspect in a contract is important. Although the 1950 Contracts Act is silent on the intention to create legal relations as one of the provisions of a legitimate contract, it is a prerequisite of the purpose to develop legal relations. An arrangement that is not a contract in the strict sense will include this aspect, unless it is the common intention of the parties that it should be technically enforceable. If there is no intention of forming civil partnerships in a contract, a lawsuit could be filed against the contract. For instance, when a deal or arrangement between the parent and the children is made. When the parent dies, the children may have whatever property or ownership the parent leaves behind [5].

Another key factor would be certainty in a deal. The terms and regulations made in a contract should be explicitly defined by the parties to the contract and accepted. It will no longer be true if the arrangement is not certain. For e.g. if the guest wishes to stay at a hotel, the guest has to say how many days he or she is staying at the hotel, the sort of room, as well as the date of stay and the number of days he or she is staying. Capacity in a contract is the legal capacity for the parties to the contract to do so. As the age of a major, 18 years old is mentioned. Minors who are under the age of eighteen have no right to enter into agreements. Therefore, insane persons or people with unsound minds should therefore not enter into any contracts that are legitimate. An individual who is at the age of sixteen should not stay at a hotel, for example [6]. Since that person is not eighteen years old or older, the hotel staff will not authorize the individual who is sixteen years old to stay at the hotel. He or she must have a guardian who is over eighteen years of age or an adult to accompany him or her to stay at the hotel in order for the child to stay at the hotel.

The 1872 Indian Contract Act administers contract law. A contract is defined as those arrangements that are enforceable by statute by section 2(h) of the Contract Act. Section 2(e) of the Act defines the arrangement, forming the consideration for each other, like any pledge or collection of commitments. When the person to whom such a proposal is made gives his permission, the proposal is said to be agreed, then the proposal is said to be accepted and becomes a pledge [7]. An agreement is an agreed commitment, and a contract is a law-enforceable agreement. The rule of the contract promisor (a person who agrees to do something in exchange for consideration) and promise requires two parties (a person who pay such consideration). Section 10 of the Act specifies that if the parties, with legal respect and legitimate object, have given their consent free of force or unreasonable interference, then all arrangements are considered to be contractual and such contracts will not be declared void. All agreements are known to be arrangements, although not all agreements are contracts.

The two parties must have the goal of forming a legal agreement on their behalf. Although there is no specific provision in the Indian Contract Act relating to the intention of establishing a legal relationship while offering and accepting a proposal, English law has the principle that both parties must have the intention of establishing a legal relationship in order to constitute a contract. When a civil contract is formed, the arrangement gives rise to legal obligations and legal implications. There is no formal relationship between arrangements that are social and domestic in nature, so they do not constitute a contract [8]. All aspects of the arrangement must take care of the fact that it must be enforceable by statute. Section 2(d) of the Act specifies that if the promisor continues, does or promises to do something or refrains from doing so on the wish of the promisor, such an act or abstinence or pledge is considered a concern for the promise. According to the wishes of the promisor, consideration must be transferred and it may be moved to consideration from the end of the promisor or some other entity, i.e. stranger, however such stranger may retain a suit.

The concern should not be sufficient, it should be true and substantial to the pledge. One of the key elements taken into account is that it should be legal in practice. The general rule of law states that if an arrangement is reached without thought, it is invalid. There is, however, a certain exception to the provision in section 25 of the Act. If the arrangement is conveyed in writing and registered in compliance with the rules, made on the grounds of natural love and intimacy between the parties that are close to each other, so concern is not required. In the case of bail, organization or donation, care is not necessary. Section 63 of the Act further specifies that consideration is not necessary or that the consideration or output can be remitted completely or partly by the promisor [9].

To enter into touch, the parties to the agreement must be competent. Under section 10 of the Act, the parties to the arrangement shall have authority, since it is one of the basic elements of the deal. Section 11 of the Act determines who is competent for the contract and states that any person who is not a minor can enter into a contract under the law to which he is subject, who is not excluded from contracting, and who is of sound mind. Section 3 of the Indian majority act describes a minority as an individual under the age of eighteen. Therefore, a person who has not attained the age of eighteen may not enter into an arrangement. A concept of sound minds who both are willing to enter into a contract is given in Section 12 of the Indian Contract Act. Two variables will determine the soundness of the mind. First, a person's capacity to recognize the terms and conditions of the contract, and secondly, a person's ability to make a sound decision and act on it. Those who have an unsound mind and are not able to enter into a deal are fools, lunatics, etc. Both parties must commit to the same thing in the same way for the formation of a contract. To constitute a legal contract, all parties must agree to the same thing in the same sense. It is important for the contract that the parties must consent to the contract and freely consent to it [10].

Section 14 of the Act defines free consent as an agreement free from coercion, undue influence, fraud and misrepresentation. Section 15 of the Act describes coercion as the perpetration or violation of any act prohibited by the Indian Penal Code, the unlawful detention of any property or the threat of the perpetrator of any act, to compel any person to do so with the intention that such person agrees to do so. Section 16 of the Act describes unfair dominance, which specifies that if one person uses his authority and misuses his power to control the other person. The object of the contract must be lawful and must not breach the law. If an object or the consideration of an agreement is illegal, it will not be enforceable. Section 23 of the Act states that what is considered and objected to is legitimate. The consideration or object of an agreement is considered to be lawful unless it is prohibited by any law and is of such a nature that it is fraudulent, involves or implies injury to another person or property, if it is permitted to violate the provisions of any law, or if the Court considers it to be immoral or opposed to public policy.

CONCLUSION & IMPLICATIONS

It is also necessary to have the core components in a contract. It will only be technically valid to make a deal where there are all the core elements of a contract. In forming a deal, people should take care to ensure that the parties are in compliance with the provisions of the contract. In every individual's day-to-day life, contracts play a very important role. The Indian Contract Act governs contracts or agreements between diverse parties. The conditions set out above must be fulfilled by the parties in order to form a contract. It is therefore essential to have all the essential elements mentioned above in a contract. It would only legally constitute a valid contract if there are all the key elements in an agreement. These are the most basic and basic principles of a contract to be fulfilled, but there may be other conditions which may be laid down for specific types of contracts or by special laws. For example, an IPR contract must abide by the rules laid down in the IPR laws.

REFERENCES

- [1] S. Chakravarty, "Importance of assignment agreements under intellectual property laws in India," *J. Intellect. Prop. Rights*, 2009.
- [2] J. Minattur, "The Indian Contract Act: Its Wanderlust And Warmer Climes," *J. Indian Law Inst.*, 1972.
- [3] F. A. Mir and M. Tariq Banday, "Authentication of electronic records: Limitations of Indian legal approach," *J. Int. Commer. Law Technol.*, 2012.

- [4] S. Chanda and R. Tiwari, "The Concept of No-Fault Liability in Contracts for the Sale of Goods," *SSRN Electron. J.*, 2012, doi: 10.2139/ssrn.1898289.
- [5] H. R. Anthala, "Research paper on Case laws of Fraud, forgery and Corruption in Banks and Financial Institutions in India," *IOSR J. Econ. Financ.*, 2014, doi: 10.9790/5933-0365357.
- [6] Zubair Ahmed, "Validation Of Agreements In Restraint Of Trade: A Study Of Indian Legal Provision," *Golden Res. thoughts*, 2016.
- [7] P. S. Tay, "The legal landscape of contract formation: Towards a distinct Malaysian jurisprudence?," in *Studies in the Contract Laws of Asia II: Formation and Third Party Beneficiaries*, 2018.
- [8] A. A. Rana, "Essentials of a Valid Contract: A Comparative Study of Sighah in Islamic Law and the Agreement in the Contract Act, 1872," *SSRN Electron. J.*, 2020, doi: 10.2139/ssrn.3722822.
- [9] E. Frantz, "Criteria catalogue for Integrated Health Care in cardiology," *Clin. Res. Cardiol.*, 2006, doi: 10.1007/s00392-006-1214-9.
- [10] D. Barker, "Essentials of a valid contract," in *Essential Australian Law*, 2020.

