

Communication of Proposal under the Indian Contract Act, 1872

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ABSTRACT: *In this era of the global pandemic, the use of digital contracts and electronic signatures has become the norm. The Indian Contract Act, 1872 states that, under its definition clause of Section 2(h), the term "Contract" is an agreement that can be enforced by law or an agreement that seeks to establish a legal relationship. It has two essential aspects of it as we split this description down: 1. Contract and 2. Enforceable by legislation. One of the most essential elements of a contract-"offer"-is the communication of the offer. Only once the bid is conveyed will agreement be granted, so that we can move on to other stages of contract formation, such as contracting capability and consideration. Any act or omission of a party presenting, approving or revoking a proposal, by which it proposes to communicate the proposal, approve or revoke it, or by which it intends to communicate that proposal, accept or revoke it, or which has the purpose of communicating it, shall be considered to be the communication of proposals, approval of proposals and acceptance, respectively.*

KEYWORDS: *Agreement; Acceptance; Communication; Contract; Indian Contract Act, 1872; Offer; Proposal; Section 3; Section 4.*

INTRODUCTION

The most significant position in contractual law is filled by Indian contract law. It would have been hard to practice commerce or any other economic operation without the rule on contracts. It is not only the corporate sector that is impacted by contract law, but everyone is affected by it. The object of contract law is to ensure that the rights and responsibilities resulting from a contract are upheld and that those affected are granted legal remedies. This legislation can be referred to as the Indian Contract Act, 1872, according to Section 1 of the Indian Contract Act, 1872 [1]. Any act or omission of a party presenting, approving or revoking a proposal, by which it proposes to communicate the proposal, approve or revoke it, or by which it intends to communicate that proposal, accept or revoke it, or which has the purpose of communicating it, shall be considered to be the communication of proposals, approval of proposals and acceptance, respectively [1].

Section 3 of the Indian Contract Act specifies the communication may take place by means of an act or omission which communicates the purpose of the party or which has the effect of communicating proposals, rejecting proposals and revoking proposals and accepting proposals. Communication of Proposals, Approval of Proposals, and Revocation of Proposals and Acceptances and Acceptances shall be considered to be made by the act or absence of the party submitting, approving or revoking, wishing to communicate, accept or revoke the proposal or having the impact of communicating it' [2].

Two Contract Methods:

Any act: any actions, terms, written (e.g. email, letters, telegrams, advertisements, etc.) or oral (e.g. email, letters, telegrams, advertisements, etc.) (e.g. telephone message) [2].

Omission: It entails such action or forbearance (refraining willingly from doing something) on the part of one that is perceived as desire or agreement by another person. It also encompasses quiet[2].

Felthouse made a plan to purchase the nephew's horse in the case of Felthouse v. Bindley and added that "if I hear no more from him, I will consider the horse mine." His nephew was then busy at an auction and did not speak with him, but Bindley (auctioneer) was advised by his nephew not to present the horse for auction sale as he intended to hold it for his uncle. By error, Bindley sold the property. Felthouse is suing

Bindley for the horse's recovery. The Court ruled that the approval of the nephew was not expressed to Felthouse. So there is no deal in this respect [3].

Section 4 of the Indian Contract Act 1872 deals with the fulfilment of a bid, approval and revocation, which says that when it has come to the attention of the person to whom it was meant to have been made, the correspondence of the offer is finished. The correspondence of the offer is considered to be complete if the offeree (specific offer) or any member of the public (general offer) becomes aware of the offer. When 2 people chat, face-to-face or by phone, etc., as soon as the bid is made, the conversation will be complete [3].

DISCUSSION

In compliance with Section 3 of the Indian Contract Statute, any act or absence of a party submitting, approving or revoking a proposal, attempting to communicate, accepting or revoking the proposal, or having the effect of communicating it, shall be considered to constitute the communication of proposals, the approval of proposals and the revocation of proposals and acceptances, respectively [4]. In the case of *Lalman Shukla v. Gauri Dutt*, the nephew of the defendant eloped from his home. The appellant was sent to look for the lost boy (the defendant's servant). The defendant declared a bounty for anybody who could locate the boy after the complainant had gone in search of the boy. The appellant was successful in bringing the boy back, who was oblivious of this award. He brought a suit against the defendant to demand the compensation/prize money when he learned of the reward announced by the defendant, when he had found the boy with no money in advance.

In the case of *Bhagwandas Goverdhandas Kedia v. Girdharilal Parshottamdas and Co. and Ors.*, the plaintiffs decided to purchase cotton seed cake from the defendants, and on 22.07.1959 the resulting deal was concluded as an oral arrangement over long distance telephone. The court argued that the parties are implicitly there, believing that the callers are the parties, on telephones, in the presence of each other. The court relied on the English case law of *Entores Ltd. v. Miles Far East Company*, in which it was held that the contract is only complete in situations of immediate contact when the seller receives a "yes" and the contract is created according to the position where it is established to explain jurisdictional concerns in the event of a violation [5]. The court argued that, in terms of the basic essence of the telephone call, the parties were, in a certain way, in the presence of each other and that the talks were completed through direct contact. They were of the view that in situations where the contract is to be completed by way of instantaneous means of communication, the contract will be concluded only when the bid is submitted by the bidder and there will be no exception for non-immediate modes of communication. The importance of immediate communication of the bid is shown by this case law.

In the Information Technology Act, 2000, the rules regulating interactive communication have been delineated, but it does not deal with the use of messaging platforms to build contracts. Modern contact is possible in two forms: simultaneous and non-instantaneous [6]. While e-mail or Facebook contact is protected by Section 4, there is no clear rule as to whether postal or instant communication rules are deemed to be the same as "contracts" made through Facebook/e-mail/Instagram DMs, etc. If someone sends a message instantly through Facebook or e-mail and reacts to the opposite party, it is known as instant communication; but if the opposite party does not respond instantly, it tends to be non-instant communication in nature, but this is a presumption of rationale and is not confirmed. Therefore, a combination of all modes of modern contact are social media tools. Under Section 13 of the Information Technology Act, 2000, the transfer of an electronic document occurs as it achieves access to a computing resource that is beyond the jurisdiction of the originator. There will be a confirmation of the bid in the case of e-mail when the letter reaches the electronic mailbox of the offeree, so the contract is established when the message enters the mailbox of the person to whom it is sent [6].

The judge claimed in the *Entores Ltd.* case (supra). that the postal law cannot be applicable to instantaneous contact systems, such as telephone and telex. If a telephone line is cut, it would be wrong to conclude that the deal was established only before the offeree approved it and the parties would not have to call each other back, as referred to telex. London was the location where the contract was made, and when and when the telex was obtained, the contract was to be created [7]. In *N.M. Superannuation Pty. Ltd. v. Hughes*, the

decision of the New South Wales Supreme Court, the judge ruled that if a fax was left on, the sender showed, through this conduct, his ability to accept communications on it and was found enough for a note to be transmitted by fax in this case, even though the letter could come outside regular business hours. Courts have not checked whether these values are acceptable to modern means of communication, but hopefully in the near future this will be achieved [8].

If the negotiating initiative is of a non-delayed sort, the prompt contact should be introduced, irrespective of the completion of the nature of the negotiation, and the deal is until the approval comes to the attention of the proposer. If the essence of the agreement is not imminent, the postal law should be followed, because until the approval is delivered and falls beyond the reach of the recipient, the deal is final. In the Bhagwandas case (supra), the Supreme Court held that Section 4 of the Contract Act refers only to modes of contact which are not immediate. We will need to integrate our digital lifestyle into law, taking the example of the 2019 update to the Consumer Protection Act. We ought to ratify international agreements concerning e-contracts as social distancing has become the norm. Countries such as the Cayman Islands, Bahrain, the United States, Thailand are paving the way for bid connectivity and set a precedent for India to keep up with this rapidly evolving digital environment [9]. In order to make a deal, the proposal is the very first step. The person who made the proposal is called the proposer, and the person by which the proposal is made is called the promising person. For his/her proposal, the offeree has fair chances to say 'Yes' or 'No' to the offeror. When it comes to the attention of the promised individual, correspondence of the plan is done [10].

CONCLUSION & IMPLICATION

One of the basics of a legal contract is a request. This paper focuses mainly on the proposal as prescribed in the Indian Contract Act, 1872 and, with the aid of well-explained illustrations from English law, also emphasizes a few significant topics under proposal. According to Section 4 of the Indian Contract Act, 1872, when it comes to the knowledge of the person to whom it is made, the correspondence of a proposal is complete.

The notice of the approval of a proposal against the proposer is complete because it is conveyed to him in such a manner that it is out of the power of the acceptor, while when it comes to the attention of the proposer, the correspondence of the acceptance of a proposal against the acceptor is complete.

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