

III BBA- BUSINESS LAW

SYLLABUS: UNIT-1:

Formation and essential elements of contract – Types of contract and agreements – rules as to offer, acceptance and consideration – capacity of contract – lawful object and free consent.

LAW-MEANING:

Law refers to all the rules and principles that regulate our relationships with other individuals and the government.

BUSINESS LAW- MEANING:

Business law is also known as Commercial law or corporate law, is the body of law that applies to the rights, relations and conduct of persons and businesses engaged in commerce, merchandising, trade and sales.

BUSINESS LAW- DEFINITION:

Business law defines as a branch of law that “regulates relations that originate from conducting economic activities or that are in a close subject or functional relation with such activities”.

CONTRACT: INDIAN CONTRACT ACT, 1872 :

Meaning of certain terms:

- 1. Proposal [(offer) Section 2(a)]:** When one person signifies to another his willingness to do or to abstain from doing anything with a view to obtaining the assent of that other to such act; he is said to make a proposal (i.e. offer).
- 2. Promise [Section 2 (b)]:** When the person to whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise.
- 3. Agreement [Section 2(e)]:** Every promise and every set of promises, forming consideration for each other, is an agreement
- 4. Contract [Section 2(h)]:** An agreement enforceable by law is a contract.
- 5. Promisor and Promisee [Section 2(c)]:** When the proposal is accepted- the person making the proposal is called as ‘promisor’; and the person accepting the proposal is called as ‘promisee’.
- 6. Consideration [Section 2(d)]:** When, at the desire of the promisor, the promisee– has done or abstained from doing something; or does or abstains from doing something; or any other person: promises to do or abstain from doing something, Such act, abstinence or promise is called a consideration for the promise.
- 7. Void agreement [Section 2(g)]:** An agreement not enforceable by law is said to be void. A void agreement is not enforceable from the very beginning, i.e. it is void ab initio.
- 8. Voidable Contract [Section 2(i)]:** An agreement is a voidable contract if:
 - a) It is enforceable by law at the option of one or more of the parties thereto,
 - b) It is not enforceable by law at the option of the other or others. Simply speaking, a

contract which can be set aside (i.e. terminated or repudiated or avoided) at the option of the aggrieved party is a voidable contract. Until the contract is repudiated, it remains a valid contract. As per Section 64, the aggrieved party must restore the benefit that he has received under the contract. The other party is freed from his obligation to perform the contract.

9. Void contract [Section 2 (j)]: A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

Simply speaking, a contract which, when entered into, was valid, but subsequently became void due to impossibility of performance or change in circumstances or change in law or some other reason (termed as supervening impossibility), is termed as void contract.

FORMATION AND ESSENTIAL ELEMENTS OF A CONTRACT:

Section 10 mentions the essentials of a valid contract. According to it, “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”.

1. **A valid offer and acceptance:** A contract is a valid contract only when there exists a valid offer and its valid acceptance. The terms of the offer must be precise and clear. The offer must be communicated to the person to whom it is made. The acceptance of the offer must be absolute and unconditional.
2. **Intention to create legal relationship:** The intention of the parties to a valid contract must be to create legal relationship between them.
3. **Lawful consideration:** For a contract to be valid, the agreement between the parties must be backed by consideration. Consideration means “something in return”. Both the parties to the agreement must give and get something in return.
4. **Capacity of parties:** The parties must be competent to contract that means capable entering into valid contract. A person is capable of entering into a valid contract if he is attained the age of majority, is of sound mind.
5. **Free consent:** Consent means willingness. The consent of the parties to a valid contract must come freely. It must not be obtained by force or by suppressing facts.
6. **Legality of object:** The object of the agreement must not be illegal, immoral or opposed to public policy.
7. **Agreement not declared void:** The agreement between the parties must not have been declared void expressly by any law in force in the country.

8. **Terms of the agreement must be certain:** The terms of the agreement must clear, precise and certain. If the terms are vague or ambiguous, the agreement cannot be enforced.
9. **Possibility of performance:** What is undertaken by the parties to an agreement must be such that it can be performed. An agreement to do an impossible act cannot be enforced.
10. **Legal formalities:** For a contract to be enforceable in a court of a law, it must comply with the necessary legal formalities as to writing, stamp duty, registration, certification, witness etc.

TYPES OF CONTRACTS/AGREEMENTS:

I. Types of Contracts on the basis of its enforcement:

- a) Valid Contract
- b) Voidable Contract
- c) Void Contract
- d) Unenforceable Contract
- e) Illegal/unlawful Contract

II. Types of Contracts on the basis of mode of creation:

- A) Express Contracts
- B) Implied Contracts
- C) Quasi-Contract

III. Types of Contracts on the basis of the extent of execution:

- a) Executed Contracts
- b) Executory Contract
- c) Unilateral Contract
- d) Bilateral Contracts

This article titled “Types of Contracts” deals with the classification of contracts on the basis of its enforcement, mode of creation and extent of its execution.

I. Types of Contracts on the basis of its enforcement:

a) Valid Contract:

An agreement enforceable by the law is a contract (**Section 2(h)**). To be enforceable it has to satisfy the requirements under **Section 10** of the Indian Contract, 1872. They are:

- There is some consideration for it.
- The parties are competent to contract
- Their object is lawful

b) Voidable Contract:

Section 2(i) of the Act defines a voidable contract. An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other, is a voidable contract.

As mentioned above, free consent which is defined in **Section 14** of the Act is an essential element of a valid contract. Consent is free when it is not obtained by coercion, undue influence, fraud, misrepresentation or mistake. Where **consent** to an agreement is caused by **coercion, undue influence, fraud or misrepresentation**, the agreement is a contract voidable at the option of the party whose consent was so caused.

c) Void Contract:

A void agreement is not enforceable at the option of either party. **Section 2(g)** of the Act explains the meaning of a void agreement.

- Agreements unlawful in part(S. 24)
- Agreements without consideration(S. 25)
- Agreements in restraint of marriage(S. 26)
- Agreements in restraint of trade(S.27)
- Agreements in restraint of legal proceedings(S. 28)
- Unmeaning agreements(S. 29)
- Wagering agreements(S. 30)

d) Unenforceable contract:

It is one which is good in substance, but because of some technical defect, one or both parties cannot be sued on it. These defect may be the absence of writing, registration, time-barred by the law of limitation, etc.

e) Illegal/unlawful Contract:

Section 23 of the Act describes some condition's when an agreement may be unlawful or illegal. A distinction has to be made between void contracts and illegal contracts. Agreements whose object or consideration is forbidden by law are called illegal contracts. In the case of void agreements, the law may merely say that if it is made, the courts will not enforce it.

II. Types of Contracts on the basis of mode of creation:

Depending on the way in which a contract is created, Types of Contracts may be classified into three. They are:

A) Express Contracts:

The first part of **Section 9** of the Indian Contract deals with promises which are expressly made. Contracts arising from expressly made promises are called express contracts.

According to Section 9 “insofar as the proposal or acceptance of any promise is made in words, the promise is said to be express”. Thus contracts entered into between the parties by words, spoken or written, are known as express contracts.

B) Implied Contracts:

The second part of **Section 9** of the Act deals with implied contracts. It says “insofar as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.” Thus contracts entered into between parties by virtue of their conduct are called implied contracts.

The terms of the agreement are not expressed in written or oral form but are inferred from their conduct.

C) Quasi-Contract:

A contract which does not arise by virtue of any agreement between the parties, but due to certain special circumstances, the law recognizes it as a contract. Such contracts come into existence because of interference from courts in the interest of justice.

There are many several situations in which law, as well as justice, requires that a certain person is required to conform to an obligation, although he has neither broken any contract nor committed any tort. The principle is that there should not be “unjust enrichment” i.e., enrichment of one at the cost of another.

III. Types of Contracts on the basis of the extent of execution:

a) Executed Contracts:

When both the parties have completely performed their respective obligations under the contract, it is said to be executed contract. It means that whatever was the object of the contract has been carried out. In most executed contracts the promises are made and then immediately completed.

The buying of goods and/or services usually falls under this category. There is no confusion about the date of execution of the contract since in most cases it is instantaneous.

b) Executory Contract:

An executory contract is one in which one or both parties are still to perform their obligations. Such contracts are future contracts. In such contracts, the consideration is the promise of performance or obligation. In executory contracts, the consideration for the promise made is carried out sometime in the future.

For example – Delivery and payment are to be made after 15 days. The contract is executory. Another good example of an executory contract is that of a lease.

c) Unilateral Contract:

They are one-sided contracts. A unilateral promise is a promise from one side only and intended to induce some action by the other party. The promisee is not bound to act, for he gives no promise from his side. But if he carries out the act desired by the promisor, he can hold the promisor to his promise.

His act is simultaneously acceptance of and consideration for the promise. “An act done at the request of the offeror in response to his promise is a consideration, and consideration in its essence is nothing else but the response to such a request.”

d) Bilateral Contracts:

A bilateral contract is a legally binding contract formed by the exchange of reciprocal promises. Here both parties are outstanding at the time of formation of the contract. In such a case, each party is a promisor and promisee. They are also known as reciprocal contracts because mutuality of obligation is essential for their enforceability.

In the case of bilateral contracts, an offer made is accepted in the form of a counter-promise. They are very common in everyday life.

OFFER:

OFFER-MEANING:

A contract lies on the basic block called OFFER. An Offer is usually understood as a Proposal.

According to Section 2(a) of the Contract Act—"An individual is said to have made the offer when he implies to another his readiness to do or to avoid doing anything with a perspective to getting the consent of that other to such act or restraint."

PARTIES:

The parties involved in offer are:-

Offeror- The person who is making an offer to other is called Offeror or Proposer.

Offeree- The Person to whom the offer has been made is called Offeree or Proposee.

As per Section 2(c), when the offeree accepts the proposal by the offeror then he becomes the Acceptor of that offer.

TYPES OF OFFER:

(i). Express offer: It is an offer that is done through words that can be either oral or written. The oral offer can be made face to face or via telephone. The written offer can be made via text messages, advertisements, letters or e-mail.

(ii). Implied Offer: It is an offer conveyed through acting or signs. But if a party observes a silence over the offer then that offer cannot be valid.

(iii). Specific Offer: It is the offer made to a specific person or group of persons and can be accepted by the same, not anyone else.

E.g W offers to buy a car from X for Rs 10 Lakh. Thus, a specific offer is made to a specific person, and only Y can accept the offer.

(iv). General Offer: It is the offer made to public at large and not to any particular person. It can be accepted by anyone by abiding by the terms of it.

E.g. Mr. A advertises in the newspaper that whosoever find his missing son would be rewarded with Rs.500. Mr. B reads it and after finding the boy, he calls Mr. A to inform about his missing son. Now Mr. A is entitled to pay Rs.500 to Mr. B for his reward.

(v). **Cross Offer:** When both the parties involved makes a similar offer to one another without knowing the each other's offer then it is called Cross offer.

E.g X sends an e-mail to Y to purchase his car for Rs. 200 while at the same time, Y unknowingly is also sending an e- mail to X stating his desire to buy the car at Rs. 200.This is the cross offer made where one party needs to accept the offer of the another.

(vi). **Standing or Open Offer:** The offer that is continuous in nature is the standing offer.

RULES AS TO OFFER:

- 1) **Expectation to Create Legal Relationship:** – An offer must mean to make lawful relations. An offer should be such that when the other party will accept it then it will make the legal relationship among the parties.
- 2) **Certain and Clear Terms:** – The terms of the offer must be certain and clear and not ambiguous. If the terms of the offer made are unclear, then no agreement can be gone into because it is not clear regarding what precisely the parties expected to do.
- 3) **Differ from Declaration of Intention:** -Offer and intention are different. Intention to offer indicates the offer will be made. The case of Farine v Ficker.
- 4) **Proper Communication:** – The offer should be properly communicated as to whom the offer is made. The offer stands completely only when the offeree is communicated about the same. If offer accepted without any proper communication and information is not valid.
- 5) **Presumption of the offer:** – The offeror cannot pressure the offer is accepted if the offeree does not accept for a certain period. Till the offeree replies back with the acceptance of the offer, then only the offer stands to be a valid offer.
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LEGAL RULES AS TO ACCEPTANCE:

MEANING-ACCEPTANCE:

An offer is said to be accepted when the person to whom it is made gives his consent to it.

According to Section 2(b), “when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise”.

LEGAL RULES AS TO ACCEPTANCE:

The rules relating to a valid acceptance are as follows:

1. **Acceptance must be absolute and unqualified:** It means that the terms of offer must be fully acceptable to the offeree.
2. **Mere mental acceptance is not enough:** Acceptance, to be valid, must be properly communicated to the offeror.

Case: Brogden vs. metropolitan Railway Co.

There was an offer to supply coal to a Railway Company. The manager of the Railway Company accepted the offer by writing “approved” in the draft agreement, kept it in his table and forgot about it. The court observed that there was no contract, as the acceptance was not properly communicated to the offeror.

3. Acceptance must be given according to the prescribed mode: where the offeror has not specified the manner in which acceptance must be given, it must be given according to some usual or reasonable mode.
4. Acceptance must be given within the time specified in the offer. If no time limit is specified, acceptance must be given within a reasonable time.

Case : Ramsgate Victoria Hotel Co. vs. Montefiore

M had offered to buy shares in R company in June. But the company had sent the letter of acceptance in November. The court held that M could reject the company’s acceptance, as it was not given within a reasonable time.

5. Acceptance must be given only by the person to whom the offer is made or by an authorized person and that too officially: The offeror cannot act on the basis of unofficial information.
6. Acceptance must be conveyed only to the offeror or a person or person authorized by him.

LEGAL RULES AS TO CONSIDERATION:

CONSIDERATION-DEFINITION:

According to Section 2(d) of the Indian Contract Act, 1872, consideration is defined 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 is called a consideration for the promisee.”

LEGAL RULES-CONSIDERATION:

(i) Consideration must move at the desire of the promisor:

Consideration can be offered by the promisee or a third-party only at the request or desire of the promisor. If an action is initiated at the desire of the third-party, it is not a consideration.

Peter is going back home from work. On his way, he sees that his neighbor John's house is on fire. He immediately arranges for a water hose and manages to douse the fire. Peter cannot claim any reward for his effort because it was a voluntary act and was not done at the desire of John (promisor).

(ii) Consideration may move from the promisee to any other person:

If you look at the definition of consideration according to section 2 (d) of the Indian Contract Act, 1872, it explicitly states the phrase 'promisee or any other person...' This essentially means that in India, consideration may move from the promisee to any other person. However, it is important to note that there can be a stranger to consideration but not a stranger to the contract.

Ex: Peter gifted his son, Oliver an apartment in the city with a condition that he pays a fixed amount of money to his uncle, John, every year. On the same day, Oliver executed a deed to pay a fixed amount of money to John every year. However, Oliver failed to pay and John filed a suit for recovery. Oliver pleaded that he was not liable since no consideration had moved from John. However, the court held the words 'promisee or any other person...' and allowed John to maintain his suit for recovery.

(iii) It can be in the past, present or future:

a. Past:

Since consideration is the price of a promise, it is normally given to induce the promise. However, it can be given before the promise is made by the promisor. This is past consideration. It is important to note that past consideration is not considered for a new promise since it is not given in lieu of the promise. According to Indian law, 'past considerations' is 'good consideration' if it was given at the desire of the promisor.

Peter employs John to work on his field during the months of agricultural harvesting. He promises to pay John an amount of Rs 5,000 for his services when he sows the new crop in the fields. The services of John in the past constitute a valid consideration.

b. Present:

If the promise and consideration take place simultaneously then it is present or executed consideration. An example is Peter goes to a shop, buys a bag of chips and pays for the same on-spot.

c. Future:

When the consideration for a promise moves after the contract is formed, it is a future or executor. It is also valid if it depends on the condition.

Peter promises to create architectural plans for John's new house. John promises to pay Peter an amount of Rs 50,000 provided the plans are approved by his wife.

(iv) It must have value in the eyes of the law:

While the law allows the parties to decide an 'adequate' consideration for them, it must be real and have value in the eyes of law. While the Court will not consider inadequacy, it will look at it to determine if the consent was given by the party with free-will or not.

Peter's wife agrees to withdraw the suit she has filed against him in return for his promise to pay her a monthly maintenance amount. This is a good consideration and holds value in the eyes of law.

(v) It should be over and above the Promisors' existing obligations:

If the promisor is already obligated either by his promise or law to perform or abstain from a certain act, then it is not a good consideration for a promise.

Peter receives a summons from the Court to appear before it as a witness for John. John promises to pay him Rs 10,000 to appear in the Court. This contract is not valid because Peter is obligated by law to appear in the Court on receiving a summons.

(vi) It cannot be Unlawful:

A consideration that is against the law or public policies is not valid.

Peter offers Rs 10,000 to John to beat up his business rival. John beats him up but Peter refuses to pay him. John cannot file a suit for recovery since the consideration is against the law.

CAPACITY TO CONTRACT:

One of the most essential elements of a valid contract is the competence of the parties to make a contract. Section 11 of the Indian Contract Act, 1872, defines the capacity to contract of a person to be dependent on three aspects; attaining the age of majority, being of sound mind, and not disqualified from entering into a contract by any law that he is subject to. In this article, we will look at all aspects in a detailed manner.

1] Attaining the Age of Majority:

According to the Indian Majority Act, 1875, the age of majority in India is defined as 18 years. For the purpose of entering into a contract, even a day less than this age disqualifies the person from being a party to the contract. Any person, domiciled in India, who has not attained the age of 18 years is termed as a minor. A Contract made with a Minor is Void.

Since any person less than 18 years of age does not have the capacity to contract, any agreement made with a minor is void ab-initio (from the beginning).

Example: Peter is 17 years and 6 months old. He needs some money to go on vacation with his friends. He approached a moneylender and borrows Rs 25,000. As security, he signs some papers mortgaging his laptop and motorcycle. Six months later, when he attains the age of majority, he files a suit declaring that the mortgage executed by him when he was a minor is void and should be cancelled. The Court agrees and relieves Peter of all liability to repay the loan.

2] Person of Sound Mind:

According to Section 12 of the Indian Contract Act, 1872, for the purpose of entering into a contract, a person is said to be of sound mind if he is capable of understanding the contract and being able to assess its effects upon his interests.

It is important to note that a person who is usually of an unsound mind, but occasionally of a sound mind, can enter a contract when he is of sound mind. No person can enter a contract when he is of unsound mind, even if he is so temporarily. A contract made by a person of an unsound mind is void.

3] Disqualified Persons:

Apart from minors and people with unsound minds, there are other people who cannot enter into a contract. i.e. do not have the capacity to contract. The reasons for disqualification can include, political status, legal status, etc. Some such persons are foreign sovereigns and ambassadors, alien enemy, convicts, insolvents, etc.

The following persons are incompetent to contract:

- (a) Minor,
- (b) Persons of unsound mind, and
- (c) Other disqualified persons.

(a) Minor:

Agreement with a minor is altogether void but his property is liable for necessities supplied to him. He cannot be a partner but can be admitted to benefits of partnership with the consent of all partners. He can always plead minority and cannot be asked to compensate for any benefit received under a void agreement. Under certain circumstances, a guardian can enter into valid contract on behalf of minor. Minor cannot ratify a contract on attaining majority.

(b) Persons of unsound mind:

Persons of unsound mind such as idiots, lunatics and drunker cannot enter into a contract, but a lunatic can enter into a valid contract when he is in a sound state of mind. The liability for necessities of life supplied to persons of unsound mind is the same as in case of minors. (Section 68).

(c) Certain other persons are disqualified due to their status:

Free Consent: Two or more persons are said to consent when they agree upon the same thing in the same sense (Section 13). Consent is free when it is not caused by mistake, misrepresentation, undue influence, fraud or coercion. When consent is caused by any of above said elements, the contract is voidable at the option of the party whose consent was so caused (Sections 19 and 19A):

(a) Coercion: Coercion is the committing or threatening to commit any act, forbidden by the Indian Penal Code or the unlawful detaining or threatening to detain, any property, to

the prejudice of any person with the intention of causing any person to enter into an agreement (Section 15). A contract induced by coercion is voidable at the option of the aggrieved party.

(b) Undue influence: When one party to a contract is able to dominate the will of the other and uses the position to obtain an unfair advantage, the contract is said to be induced by undue influence. (Section 16). Such contract is voidable, not void.

(c) Fraud: Fraud exists when a false representation has been made knowingly with an intention to deceive the other party, or to induce him to enter a contract (Section 17). Contract in the case is voidable.

(d) Misrepresentation: Means a misstatement of a material fact made believing it to be true, without an intent to deceive the other party (Section 18). Contract will be voidable in this case.

(e) Mistake: When both the parties are at a mistake to a matter of fact to the agreement, the agreement is altogether void.

LAWFUL OBJECT AND FREE CONSENT:

Section 23 of the Indian Contract Act clearly states that the consideration and/or object of a contract are considered lawful consideration and/or object unless they are

- specifically forbidden by law
- of such a nature that they would defeat the purpose of the law
- are fraudulent
- involve injury to any other person or property
- the courts regard them as immoral
- are opposed to public policy.

So lawful consideration and/or lawful object cannot contain any of the above. Let us take a more in detail look at each of them.

1. FORBIDDEN BY LAW:

When the object of a contract or the consideration of a contract is prohibited by law, then they are not lawful consideration or object anymore. They then become unlawful in nature. And so such a contract cannot be valid anymore.

Unlawful consideration of object includes acts that are specifically punishable by the law. This also includes those that the appropriate authorities prohibit via rules and regulations. But if the rules made by such authorities are not in tandem with the law than these will not apply.

Example. A received a license from the Forest Department to cut the grass of a certain area. The authorities at the department told him he cannot pass on such interest to another person. But the Forest Act has no such statute. So A sold his interest to B and the contract was held as valid.

2. CONSIDERAION OR OBJECT DEFEATS THE PROVISION OF THE LAW:

This means if the contract is trying to defeat the intention of the law. If the courts find that the real intention of the parties to the agreement is to defeat the provisions of the law, it will put aside the said contract. Example A and B enter into an agreement, where A is the debtor, that B will not plead limitation. This, however, is done to defeat the intention of the Limitation Act, and so the courts can rule the contract as void due to unlawful object.

3. FRAUDULENT CONSIDERATION OR OBJECT:

Lawful consideration or object can never be fraudulent. Agreements entered into containing unlawful fraudulent consideration or objects are void by nature. Say for example A decides to sell goods to B and smuggle them outside the country. This is a fraudulent transaction as so it is void. Now B cannot recover the money under the law if A does not deliver on his promise.

4. DEFEATS ANY RULES IN EFFECT:

If the consideration or the object is against any rules in effect in the country for the time being, then they will not be lawful consideration or objects. And so the contract thus formed will not be valid.

5. WHEN THEN INVOLVE INJURY TO ANOTHER PERSON OR PROPERTY:

In legal terms, an injury means to a criminal and harmful wrong done to another person. So if the object or the consideration of the contract does harm to another person or property, this will

amount to unlawful consideration. Say for example a contract to publish a book that is a violation of another person's copyright would be void. This is because the consideration here is unlawful and injures another person's property, i.e. his copyright.

6. WHEN CONSIDERATION IS IMMORAL:

If the object or the considerations are regarded by the court as immoral, then such object and consideration are immoral. Say for example A lent money to B to obtain a divorce from her husband C. It was agreed once B obtains the divorce A would marry her. But the court passed the judgment that A cannot recover money from B since the contract is void on account of unlawful consideration.

7. CONSIDERATION IS OPPOSED TO PUBLIC POLICY:

For the good of the community, we restrict certain contracts in the name of public policy. But we do not use public policy in a wide sense in this matter. If that was the case it would curtail individual freedom of people to enter into contracts. So for the purpose of lawful consideration and object public policy is used in a limited scope. We only focus on public policy under the law.

So let us look at some agreements that are opposed to public policy,

1. Trading with the Enemy: Entering into an agreement with a person from a country with whom India is at war, void be a void agreement. For example, a trader entering into a contract with a Pakistani national during the Kargil war.
2. Stifling Prosecution: This is a pervasion of the natural course of law, and such contracts are void. For example, A agrees to sell land to B if he does not participate in the criminal proceedings against him.

FREE CONSENT:

Consent is said to be free when it is not caused by :

- Coercion
- Undue influence
- Fraud
- Misrepresentation, or
- Mistake

Consent is said to be so caused when it would not have been given but for the existence of such coercion, undue influence, fraud, misrepresentation or mistake.^[7]

When consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused. A party to a contract whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

Books of References:

- 1. M.C. Dhandapani Business Law**
- 2. M.C. Shukla Business Law**
- 3. J.Jayasankar Business Laws.**