BBA II Semester

Subject- BUSINESS LAW

TOPIC- INDIAN CONTRACT ACT 1872

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Indian Contract Act, 1872

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The Indian Contract Act, 1872 is one of the oldest in the Indian law regime, passed by the legislature of pre-independence India; it received its assent on 25th April 1872. The statute contains essential principles for formation of contract along with law relating to indemnity, guarantee, bailment, pledge and agency.

✓ Meaning of a valid Contract:

An agreement involves an offer or proposal by one person and acceptance of such offer or proposal by another person. If the agreement is capable of being enforced by law then it is a contract. Section 2[h] of Indian Contract Act, 1872 defines the term contract as "an agreement enforceable by law".

According to the terms of Section 10 of the Act, an agreement is a valid contract if it is made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object and are not expressly declared to be void.

✓ Essential Elements of a valid Contract

In order to be a valid contract, in the first place there must be an offer and the said offer must have been accepted. Such offer and acceptance should create legal obligations between parties. This should result in a moral duty on the person who promises or offers to do something. Similarly this should also give a right to the promisee to claim its fulfillment. Such duties and rights should be legal and not merely moral. These elements can be summarized as follows:

1. Intention to create legal obligation through offer and acceptance:

In the first place, there must be an offer and the said offer must have been accepted. Such offer and acceptance should create legal obligations between parties. This should result in a moral duty on the person who promises or offers to do something. Similarly this should also give a

right to the promisee to claim its fulfillment. Such duties and rights should be legal and not merely moral.

2. Free consent of the parties:

The second element is the 'consent' of the parties. 'Consent' means 'knowledge and approval' of the parties concerned. This can also be understood as identity of minds in understanding the term viz consensus ad idem. Further such consent must be free. Consent would be considered as free consent if it is not vitiated by coercion, undue influence, fraud, misrepresentation or mistake. Wherever the consent of any party is not free, the contract is voidable at the option of that party.

3. Competency or capacity to enter into contract:

Capacity or incapacity of a person could be decided only after reckoning various factors. Section 11 of the Indian Contract Act, 1872 elaborates on the issue by providing that a person who-

a) has not attained the age of majority,

b) is of unsound mind and

c) is disqualified from entering into a contract by any law to which he is subject,

should be considered as not competent to enter into any contract. Therefore, law prohibits (a) Minors (b) persons of unsound mind and (c) person who are otherwise disqualified like an alien enemy, insolvents, convicts etc from entering into any contract.

4. Lawful consideration:

'Consideration' would generally mean 'compensation' for doing or omitting to do an act or deed. It is also referred to as '*quid pro quo'* viz 'something' in return for another thing'. Such a consideration should be a lawful consideration.

5. Lawful object:

The last element to clinch a contract is that the agreement entered into for this purpose must not be which the law declares to be either illegal or void. An illegal agreement is an agreement expressly or impliedly prohibited by law. A void agreement is one without any legal effects. For Example: Threat to commit murder or making/publishing defamatory statements or entering into agreements which are opposed to public policy are illegal in nature.

❖ **Proposal / Offer**

The word 'proposal' and the word 'offer' mean one and the same thing and therefore are used interchangeably. In terms of Section 2(a) of the Act "a person is said to make a proposal when he signifies to another his willingness to do or abstain from doing anything with a view to

obtaining the assent of that other to such act or abstinence". Hence there are two important ingredients to an offer. Firstly, it must be expressions of willingness to do or to abstain from doing an act. Secondly the willingness must be expressed with a view to obtain the assent of the other party to whom the offer is made.

Classification of offer

Offer can be classified in the following ways:

a. **General offer:** It is an offer made to public at large with or without any time limit. In terms of Section 8 of the Act anyone performing the conditions of the offer can be considered to have accepted the offer ..Until the general offer is retracted or withdrawn, it can be accepted by anyone at any time as it is a continuing offer.

b. **Special/specific offer**: Where an offer is made to a particular and specified person, it is a specific offer. Only that person can accept such specific offer, as it is special and exclusive to him.

c. **Cross offer**: As per section 2(b), when a person to whom proposal (offer) is made signifies his assent, the proposal is said to be accepted. Thus, assent can be only to a 'proposal'. If there was no proposal, question of its acceptance cannot arise. For example, if A makes a proposal to B to sell some goods at a specified price and B, without knowing proposal of A, makes a proposal to purchase the same goods at the price specified in the proposal of A, it is not an acceptance, as B was not aware of proposal made by A. It is only cross proposal (cross offer). And when two persons make offer to each other, it cannot be treated as mutual acceptance. There is no binding contract in such a case.

d. **Counter offer:** Upon receipt of an offer from an offer or, if the offeree instead of accepting it straightway, imposes conditions which have the effect of modifying or varying the offer, he is said to have made a counter offer. Counter offers amount to rejection of original offer.

e. **Standing or continuing or open offer**: An offer which is made to public at large and if it is kept open for public acceptance for a certain period of time, it is known as standing or continuing or open offer. Tenders that are invited for supply of materials and goods are classic examples of standing offer.

Rules relating to offer

Following are the rules for a valid and legal offer:

a. The 'offer' must be with intent to create a legal relationship. Hence if it is accepted, it must result in a valid contract.
b. The offer must be certain and definite. It must not be vague.
c. The offer must be express or implied.
d. The offer must be distinguished from an invitation to offer.
e. The offer must be either specific or general.
f. The offer must be communicated to the person to whom it is made. Otherwise the offeree cannot accept the offer.
g. The offer must be made with a view to obtaining the consent of the offeree.
h. An offer can be conditional but there should be no term in the offer that non-compliance would amount to acceptance. Thus, the offeror cannot say that if non-acceptance is not communicated by a certain time the offer would be treated as accepted.

Invitation to Offer

An offer is definite. It is an intention towards a contract. An invitation to offer is an act precedent to making an offer. It is done with intent to generally to induce and negotiate. An invitation to offer gives rise to an offer after due negotiation and it cannot be per se accepted. In an invitation to offer there is no expression of willingness by the offeror to be bound by his offer. It is only a proposal of certain terms on which he is willing to negotiate. It is not capable of being accepted as it is. When there is advertisement by a person he has a stock of books for sale, it is an invitation to offer and not an offer. This advertisement is made to receive offers and to further negotiate.

Following are instances of invitation to offer to buy or sell:

i. An invitation by a company to the public to subscribe for its shares.
ii. Display of goods for sale in shop windows.
iii. Advertising auction sales and
iv. Quotation of prices sent in reply to a query regarding price.

Acceptance

In terms of Section 2(b) of the Act, " A proposal or offer is said to have been accepted when the person to whom the proposal is made signifies his assent to the proposal to do or not to do something". In short, act of acceptance lies in signifying one's assent to the proposal.

Relationship between offer and acceptance

Acceptance converts the offer into a promise and then it is too late to revoke it. The significance of this is that an offer by itself cannot create any legal relationship but it is the acceptance by the offeree which creates a legal relationship. Once an offer is accepted it becomes a promise and cannot be withdrawn or revoked. An offer remains an offer so long as it is not accepted, but becomes a contract as soon as it is accepted.

Rules governing acceptance

1. Acceptance must be absolute and unqualified: As per Section 7 of the Act, acceptance is valid only when it is absolute and unqualified and is also expressed in some usual and reasonable manner unless the proposal prescribes the manner in which it must be accepted. If the proposal prescribes the manner in which it must be accepted, then it must be accepted accordingly.
2. The acceptance must be communicated: To conclude a contract between the parties, the acceptance must be communicated in some perceptible form. Any conditional acceptance or acceptance with varying or too deviant conditions is no acceptance. Such conditional acceptance is a counter proposal and has to be accepted by the proposer, if the original proposal has to materialize into a contract.
3. Acceptance must be in the prescribed mode: Where the proposal prescribes the mode of acceptance, it must be accepted in that manner. Where the proposal does not prescribe the manner, then it must be accepted in a reasonable manner. If the proposer does not insist on the proposal being accepted in the manner in which it has to be accepted, after it is accepted in any other manner not originally prescribed, the proposer is presumed to have consented to the acceptance. Sometimes the acceptor may agree to a proposal but may insist on a formal agreement, in which case until a formal agreement is drawn up there is no complete acceptance.
4. The acceptance must be given within a reasonable time and before the offer lapses.

5. Mere silence is not acceptance. The acceptor should expressly accept the offer. Acceptance can be implied also. Acceptance must be given only by that person to whom it is made, that too only after knowing about the offer made to him.

Communication of Offer and Acceptance

One important common requirement for both 'offer' and 'acceptance' is their effective communication. Effective and proper communication prevents avoidable revocation and misunderstanding between parties. The communication part of it assumes importance because parties are separated by and distance. In which case the modes of communication like, post/courier, telegram, fax, email, telephone etc., become very relevant because the method of communication would also decide the 'time' of 'offer' and 'acceptance'. The Indian Contract Act, 1872, gives a lot of importance to "time" element in deciding when the offer and acceptance is complete.

Consideration

The expression 'consideration' has to be understood as a price paid for an obligation. Consideration is "some right, interest, profit or benefit accruing to one party or forbearance, detriment, loss, or responsibility given, suffered or under taken by the other". The judgment thus refers to the position of both the promisor, and the promisee in an agreement. Section 2 (d) of the Act defines consideration as '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 an act or abstinence or promise is called consideration for the promise".

From the above definition it can be inferred that consideration is doing or not doing something, which the promisor desires to be done or not done.

I. Consideration must be at the desire of the promisor.
II. Consideration may move from one person to any other person.
III. Consideration may be past, present or future and
IV. Consideration should be real though not adequate

In terms of section 13 of the Act, two or more persons are said to have consented when they agree upon the same thing in the same manner. This is referred to as identity of minds or "consensusad-idem". Absence of identity of minds would arise when there is an error on the part of the parties regarding

a. nature of transaction or
b. person dealt with or
c. subject matter of agreement.

In such cases there would be no consent. However cases of fundamental errors have to be distinguished from cases of mutual mistakes.

The consent referred above must be "free consent" as well. Consent is free when it is not caused by coercion, undue influence, fraud, misrepresentation or mistake (Section 14). When the consent is caused by mistake, the agreement is void, but when caused by other factors it is voidable.

1. **Coercion (Section 15):** "Coercion" is the committing, or threatening to commit any act forbidden by the Indian Penal Code 1860, or the unlawful detaining, or threatening to detain any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement. An agreement induced by coercion is voidable and not void. That means it can be enforced by the party coerced, but not by the party using coercion.
2. **Undue influence (Section 16):** A contract is said to be induced by "undue influence" where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage of the other. A person is deemed to be in a position to dominate the will of the other, when he holds authority, real or apparent over the other, or when he stands in a fiduciary relation to other. The essential ingredients of undue influence are:

   One of the parties dominates the will of the other and

   a. He has real or apparent authority over the other;
   b. He is in a position to dominate the will of the other and
   c. The dominating party takes advantage of the relation.

Following are the instances where one person can be treated as in a position to dominate the will of the other.

i. A solicitor can dominate the will of the client.
ii. A doctor can dominate the will of his patient having protracted illness and
iii. A trustee can dominate the will of the beneficiary.

The burden of proof (in situations like the above) that there is no undue influence in an agreement would be on the person who is in a position to dominate the will of the other.

3. **Fraud (Section 17):** Fraud means and includes any of the following act committed by a party to a contract or with his connivance or by his agent with intent to deceive another party.

✓ Types of Contracts:

The following are the main types of contracts:

1. Void Contract

A void contract is one which cannot be enforced by a court of law. As per Section 2 (j) "A contract which ceases to be enforceable by law becomes void". For example, a contract becomes void when any of the following happens:

a. Where both parties to an agreement are under a mistake of fact [Section 20]
b. When the consideration or object of an agreement is unlawful [Section 23],
c. An agreement without consideration [Section 25],
d. An agreement in restraint of marriage [Section 26], trade [Section 27], legal proceedings [Section 28] and agreement by way of wager [Section 30] are instances of void contract.

2. Voidable Contract

A voidable contract is one where one of the parties to the agreement is in a position or is legally entitled or authorized to avoid performing his part. Such a right might arise from the fact that the contract may have been brought about by one of the parties by coercion, undue influence, fraud or misrepresentation and hence the other party has a right to treat it as a voidable contract. Section 2[i] defines a voidable agreement which is enforceable by law at the option of one or more parties but not at the option of the other or others.

3. Illegal Contracts

Illegal contracts are those that are forbidden by law. All illegal contracts are hence void also. Because of the illegality of their nature they cannot be enforced by any court of law. Thus, contracts which are opposed to public policy or immoral are illegal. Similarly contracts to commit crime like *supari* contracts are illegal contracts.

4. **Express Contracts**

A contract would be an express contract if the terms are expressed by words or in writing. Section 9 of the Act provides that if a proposal or acceptance of any promise is made in words the promise is said to be express.

5. **Implied Contracts**

Implied contracts come into existence by implication which is mostly by law and or by action. Section 9 of the Act contemplates such implied contracts when it lays down that in so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied. For instance 'A' delivers goods by mistake at the warehouse of 'B' instead of that of 'C'. Here 'B' not being entitled to receive the goods is obliged to return the goods to 'A' although there was no such contract to that effect.

6. **Tacit Contracts**

Tacit contracts are those that are inferred through the conduct of parties. An example of tacit contract is where a contract is assumed to have been entered when a sale is given effect to at the fall of hammer in an auction sale.

7. **Executed Contract**

The consideration in a given contract could be an act or forbearance. When the act is done or executed or the forbearance is brought on record, then the contract is an executed contract.

8. **Executory Contract**

In an executory contract, the consideration is reciprocal promise or obligation. Such consideration is to be performed in future only and therefore these contracts are described as executory contracts.

9. **Unilateral Contract**

Unilateral contracts is a one sided contract in which only one party has to perform his duty or obligation.

10. **Bilateral Conracts**

A Bilateral contract is one where the obligation or promise is outstanding on the part of both the parties.

Contingent Contracts

In terms of Section 31 of the Act contingent contract is a contract to do or not to do something, if some event collateral to such contract does or does not happen. Contracts of indemnity and

contracts of insurance fall under this category. For instance, if 'A' contracts to pay 'B' ` 100000/- if B's house is destroyed by fire then it is a contingent contract.

Essentials of a contingent contract

1. The performance of a contingent contract would depend upon the happening or non happening of some event or condition. The condition may be precedent or subsequent.
2. The event referred to is collateral to the contract. The event is not part of the contract. The event should be neither performance promised nor a consideration for a promise.
3. The contingent event should not be a mere 'will' of the promisor. The event should be contingent in addition to being the will of the promisor.

Rules Relating to Enforcement a Contingent Contract

The rules relating to enforcement of a contingent contract are laid down in sections 32, 33, 34 and 36 of the Act.

1. *Contingency is the "happening of an event":* Where a contract identifies happening of a future contingent event, the contract cannot be enforced until and unless the event 'happens'. If the happening of the event becomes impossible, then the contingent contract is void.
2. *Contingency is the non-happening of an event*: Where a contingent contract is made contingent on a non-happening of an event, it can be enforced only when its happening becomes impossible.
3. *Contingent on the future conduct of a living person:* A contract would cease to be enforceable if it is contingent upon the conduct of a living person when that living person does something to make the 'event' or 'conduct' as impossible of happening.
4. *Contingent on an impossible event:* A contingent agreement to do a thing or not to do a thing if an impossible event happens is void and hence is not obviously enforceable. The situation would not change even if the parties to the agreement are not aware of such impossibility. 'A' agrees to pay 'B' ` One lakh if Sun rises in the west next morning. This is an impossible event and hence void.

Difference between a contingent contract and a wagering contract

1. A wagering agreement is a promise to give money or money's worth with reference to an uncertain event happening or not happening.
2. A contingent contract is a contract to do or not to do something with reference to a

collateral event happening or not happening.

3. A wagering agreement consists of reciprocal promises whereas a contingent contract may not contain reciprocal promises.
4. In a wagering contract the uncertain event is the core factor whereas in a contingent contract the event is collateral.
5. A wagering agreement is essentially contingent in nature whereas a contingent contract may not be wagering in nature.
6. In a wagering agreement, the contracting parties have no interest in the subject matter whereas it is not so in a contingent contract.
7. A wagering contract is a game, losing and gaining alone matters whereas it is not so in a contingent contract.
8. A wagering agreement is void where as a contingent contract is valid.

Quasi – Contracts

Even in the absence of a contract, certain social relationships give rise to certain specific obligations to be performed by certain persons. These are known as quasi contracts as they create same obligations as in the case of regular contract. Quasi contracts are based on principles of equity, justice and good conscience.

Salient features of quasi contracts are:

I. In the first place, such a right is always a right to money and generally, though not always, to a liquidated sum of money.

II. Secondly, it does not arise from any agreement of the parties concerned, but it imposed by the law; and

III. Thirdly, it is a right which is available not against all the world, but against a particular person or persons only, so that in this respect it resembles a contractual right.

Types of Quasi Contract

There are five circumstances which are identified by the Act as quasi contracts. These five circumstances do not result in regular contracts.

1. **Claim for necessaries supplied to persons incapable of contracting**: Any person supplying necessaries of life to persons who are incapable of contracting is entitled to claim

the price from the other person's property. Similarly where money is paid to such persons for purchase of necessaries, reimbursement can be claimed.

2. **Right to recover money paid for another person:** A person who has paid a sum of money which another is obliged to pay, is entitled to be reimbursed by that other person provided the payment has been made by him to protect his own interest.
3. **Obligation of person enjoying benefits of non-gratuitous act**: In term of section 70 of the Act "where a person lawfully does anything for another person, or delivers anything to him not intending to do so gratuitously and such other person enjoys the benefit thereof, the latter is bound to pay compensation to the former in respect of, or to restore, the thing so done or delivered.
4. **Responsibility of finder of goods:** In terms of Section 71 'A person who finds goods belonging to another and takes them into his custody is subject to same responsibility as if he were a bailee'.
5. **Liability for money paid or thing delivered by mistake or by coercion:** In terms of Section 72 of the Act, "a person to whom money has been paid or anything delivered by mistake or under coercion, must repay or return it. Every kind of payment of money or delivery of goods for every type of 'mistake' is recoverable. A payment of municipal tax made under mistaken belief or because of mis- understanding of the terms of lease can be recovered from municipal authorities.

✓ Performance of Contracts

Performance by all the parties of the respective obligations is the natural and normal mode of termination or discharging of a contract. Section 37 of the Contract Act, states that the parties to a contract must either perform or offer to perform their respective promise under the contract. In case of performance involving personal skill, taste, credit etc., the promisor himself must perform the contract. In case of contract of impersonal nature, the promisor himself or his agent must perform the contract, but in case of death of the promisor before the performance, the liability of performance falls on his legal representative. Section 41 states that if the promisee accepts the performance of the promise from a third party, he cannot afterwards enforce it against the promisor.

✓ By Whom a Contract may be Performed

The promise under a contract can be performed by any one of the following:

I. **Promisor himself:** Invariably the promise has to be performed by the promisor where the contracts are entered into for performance of personal skills, or diligence or personal confidence, it becomes absolutely necessary that the promisor performs it himself.

II. **Agent**: Where personal consideration is not the foundation of a contract, the promisor or his representative can employ a competent person to perform it.

III. **Representatives:** Generally upon the death of promisor, the legal representatives of the deceased are bound by the promise unless it is a promise for performance involving personal skill or ability of the promisor.

IV. **Third Person:** Where a promisee accepts performance from a third party he cannot afterwards enforce it against the promisor. Such a performance, where accepted by the promisor has the effect of discharging the promisor though he has neither authorized nor ratified the act of the third party.

V. **Joint promisors**: Where two or more persons jointly promise, the promise must be performed jointly unless a contrary intention appears from the contract.

✓ Termination and Discharge of Contracts

Discharge of a contract implies termination of the contractual relationship between the parties. On the termination of such relationship, the parties are released from their obligations in the contract. In this way the contract comes to an end. In other words, a contract is said to be discharged when the rights and obligations created by the contract are terminated. The contract may be discharged in any one of the following ways which are known as modes of discharging contract.

✓ Modes of Discharge of Contract:

A contract can be discharged in the following ways:

1. By performance
2. By mutual agreement
3. By supervening impossibility

4. By operation of law
5. By lapse of time
6. By material alteration
7. By breach of contract

1. Discharge of Contract by Performance:

This is the most popular and usual way of discharging the contract. Performance means accomplishing of that which is required by a contract. This may be of two types:

i. *Actual performance:* When both the parties do what they have promised to do, the contract is said to be performed. In this way both parties get released from their obligations in that contract, and the contract comes to an end.

ii. *Attempted performance:* when the promisor is ready and willing to perform his promise, but the promisee refuses to accept the performance, it is known as attempted performance. An attempted performance, to be legally valid, must have the following requirements:

a. It must be unconditional
b. It must be made at reasonable place and time.
c. Reasonable opportunity to ascertain capability.
d. Reasonable opportunity for inspection of goods.
e. It must have been made to the promisee or proper person.

2. Discharge of contract by Mutual agreement:

A contract is formed when the parties mutually agree on a matter. In the same way both the parties of a contract may by mutual agreement discharge the contract.

3. Discharge of contract by supervening impossibility:

A contract is discharged due to supervening impossibility under the following situations:

i. *Destruction of subject matter of contract*
ii. *Non existence or non occurrence of a particular state of things*
iii. *Change of law or stepping in of a person with statutory authority.*
iv. *Death or personal incapacity of the party.*
v. *Declaration of war.*

4. Discharge of contract by operation of law

A contract may also be discharged by the operation of the law. In these cases, the law comes into force and the parties are released from their obligations in the contract. Following are the instances where the contract is discharged by an operation of law:

i. Death of promisor

ii. Insolvency

iii. Merger

iv. Loss of evidence

5. Discharge of contract by lapse of time

The contract must be performed within a stipulated period of time or a reasonable period of time. If not, the contract will be discharged. Provisions regarding the time factor are provided in the Indian Limitation Act.

6. Discharge of contract by material alterations

A contract is also discharged when the promisee or his agent makes any material alteration, without the consent of the other party, in the document containing the contract and its terms and conditions.

7. Discharge of contract by breach of contract

Breach of contract means refusal of performance on the part of the parties. That means failure of a party to perform his or her obligation under a contract.

Breach of contract can be actual breach or anticipatory breach. Where a person repudiates a contract before the stipulated due date, it is anticipatory breach. In both the events, the party who has suffered injury is entitled for damages. Further he is discharged from performing his part of the contract.

I. Anticipatory Breach of Contract

Where the promisor refuses to perform his obligation even before the specified time for performance and signifies his unwillingness, then there is an anticipatory breach.

II. Actual Breach of Contract

Where one of the parties breaches the contract by refusing to perform the promise on due date, it is known as actual breach of contract. In such a case the other party to contract obtains a right of action against the one who breached the contract.

- **Remedies for Breach of Contract**

The various types of remedies available to the aggrieved party in the event of breach of a contract are shown as follows:

1. **Rescission of contract:** Where one party breaches the contract, the other party can treat it as rescinded. In this case the other party is absolved of his obligation and is entitled to compensation for damages which he suffered.
2. Q**uantum Meruit**: The phrase '*quantum meruit'* literally means "*as much as is earned*" or "*according to the quantity of work done*". A person who has begun a civil contract work and has to later stop the work because the other party has made the performance impossible, is entitled to receive compensation on the principle of 'Quantum Meruit'.
3. **Damages:** Another remedy available in the case of breach of contract is damages. Damages may be any of the four types as follows:
    a. **Ordinary**: Damages which arise in the ordinary course of events from the breach of contract are called ordinary damages. These damages constitute the direct loss suffered by the aggrieved party. They are estimated on the basis of circumstances prevailing on the date of the breach of the contract. Subsequent circumstances tending to change the quantum of the damages are ignored.
    b. **Special:** These damages result from the breach of the contract under special circumstances. They constitute the indirect loss suffered by the aggrieved party on account of breach of contract. They can be recovered only when the special circumstances responsible for the special losses, were made known to the party at the time of the making of the contract.
    c. **Exemplary or vindictive damages:** They are quite heavy in amount and are awarded by way of punishment , when there is a breach of a contract to marry or dishonor of a customer's cheque by the bank without any proper reason. These damages are awarded with the intention of punishing the defaulting party.

d. **Nominal:** These damages are quite small in amount and are never granted by way of compensation for the loss. In such cases, usually the actual loss may be very negligible. They are awarded simply to recognize the right of the party to claim damages for the breach of the contract.

4. **Specific Performance:** Courts can, at their discretion, order for the specific performance of a contract according to the provision of the Specific Relief Act. In those cases monetary compensation will not be an adequate remedy or actual damages cannot accurately be assessed. Specific performance of an agreement will not be granted if the agreement has been made without consideration, or the court cannot supervise its execution, or it will be inequitable (that is not fair and just), or if the contract is of a personal nature.
5. **Injunction:** Where a contract is of a negative character, i.e., a party has promised not to do something and he does it and thereby commits a breach of contract, the aggrieved party may, under certain circumstances, seek the protection of the court and obtain an injunction, forbidding the party from committing breach. An injunction is an order of the court instructing a person to refrain from doing some act which has been the subject matter of the contract.
6. **Restitution:** It means an act of restoration. According to Alison, a person who has been unjustly enriched at the expense of another must make compensation to the other.