

Unit-II of Law of Contract-I

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Section-A
LL.B. 3 Years Course

Law of Contract - Unit II: Free Consent

Aims and Objectives



Understanding 'Free Consent'

Free consent is a foundational principle in contract law. It exists when both parties agree upon the same thing in the same sense, without coercion, undue influence, fraud, misrepresentation, or mistake.



Objective of Unit-II

This module examines circumstances where contracts, though apparently valid, are rendered void or voidable due to flaws in consent, focusing on legal remedies and judicial reasoning.



Key Legislations

The Indian Contract Act, 1872 (Sections 13–22), along with relevant case law, governs the doctrines of defective consent. Related provisions of IPC, Majority Act, and Specific Relief Act also apply.



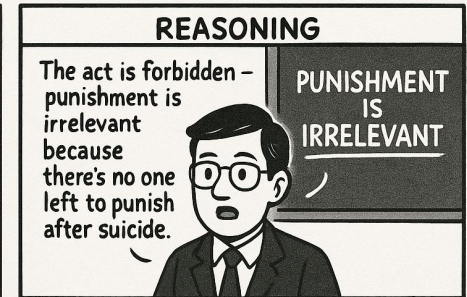
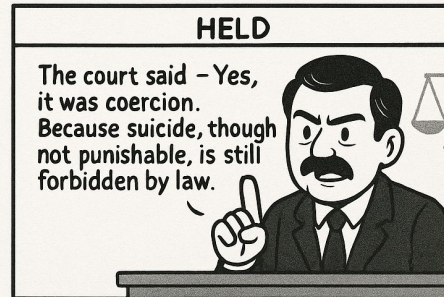
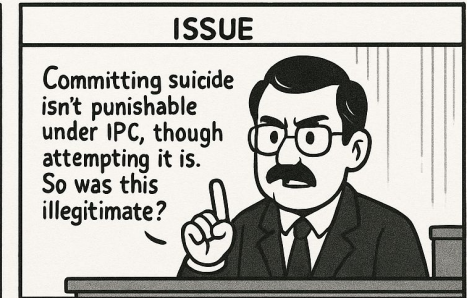
Real-World Application

Free consent issues arise in commercial disputes, family transactions, insurance contracts, and even consumer purchases. Courts test voluntariness and fairness.

Coercion in Contracts

Section 15, Indian Contract Act, 1872

- **Definition and Scope:** Section 15 defines coercion as committing or threatening acts forbidden by the IPC/BNS, or unlawful detaining of property, to induce contract formation.
- **Effect on Contract Validity:** Contracts formed under coercion are voidable at the option of the coerced party. The aggrieved party can rescind the agreement and seek restitution.
- **Key Case: Chikham Amiraju v. Chikham Seshamma (1917):** Illustrates physical threat as coercion—even aboard a foreign ship where IPC wasn't applicable. Held: Consent obtained under such threat is not free.
- **Economic Coercion – Modern Extension:** Universe Tankships Inc. v. ITWF established that economic duress, even from lawful acts, can vitiate consent if it overwhelms the party's will.



Undue Influence in Contracts

Section 16, Indian Contract Act, 1872

- **Legal Definition:** Undue influence arises when one party dominates the will of another to gain an unfair advantage. It includes fiduciary and power-based relationships.
- **Deemed Dominance:** The law presumes dominance in relationships like parent-child, doctor-patient, banker-client, where influence is naturally exerted.
- **Burden of Proof:** In apparent undue influence, the dominant party must prove that the transaction was fair and voluntary. The presumption arises from the nature of relationship.
- **Key Case: Lloyds Bank Ltd. v. Bundy (1975):** The court held that the bank abused its position by inducing an elderly customer to mortgage his home without independent advice.



Fiduciary & Deemed Dominant Relationships

Presumed Influence under Section 16(2), ICA 1872



What is a Fiduciary Relationship?

A fiduciary relationship involves trust and reliance. Examples include parent-child, solicitor-client, doctor-patient, and spiritual guru-disciple.



Judicial Presumptions

Once fiduciary relation and unfair bargain are shown, the court presumes undue influence. The burden shifts to the dominant party to disprove it.



Deemed Dominance

Section 16(2) recognises relationships where dominance is presumed by law. These include positions of authority, trust, or dependence.



Key Cases: Bundy, Odorizzi

In Lloyds Bank v. Bundy and Odorizzi v. Bloomfield, trust was misused to secure unfair advantage. Courts prioritised equitable relief.

David Odorizzi v. Bloomfield School District (1966)

- **Facts:** A teacher, Mr. David Odorizzi, was arrested (for charges of homosexuality which was a crime in State of California, USA during the time) and emotionally exhausted (didn't sleep for 48 hours). His principal and superintendent visited him at home, urging him to resign immediately to avoid public dismissal, saying it would "be better for him." He signed without consulting anyone.
- **Issue:** Was his resignation voluntary or obtained through undue influence?
- **Held:** The court set aside the resignation — Odorizzi's free will was overpowered by psychological pressure. He was in a vulnerable mental state, approached at an unusual time and place, and urged to act quickly without legal advice.
- **Principle:** "Persuasion that substitutes another's will for one's own amounts to undue influence." Pressure without physical threat can still destroy consent.

Fraud in Contract Law

Section 17, Indian Contract Act, 1872

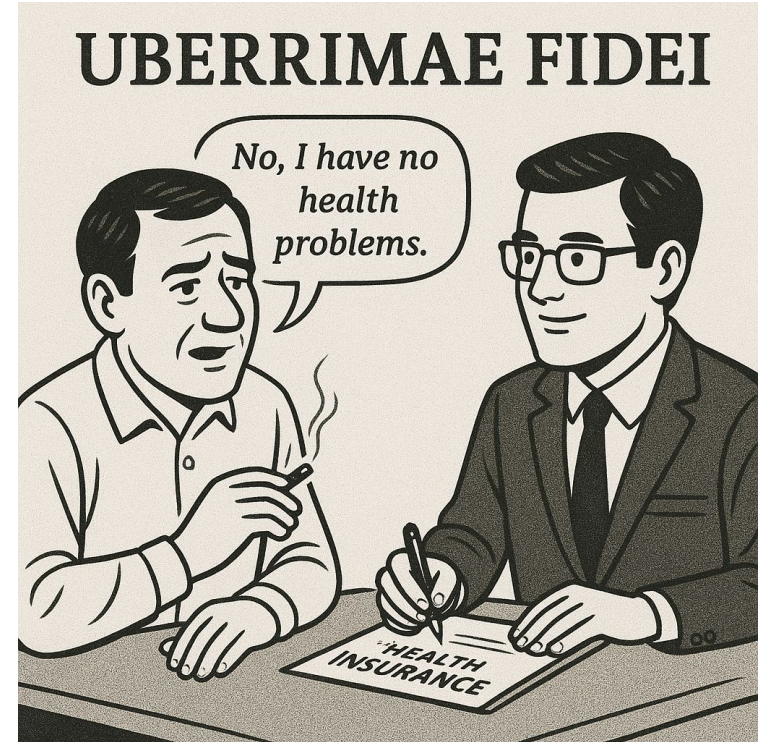
- **Definition of Fraud:** Fraud includes false assertions, active concealment, promises made without intent to perform, and acts designed to deceive, as per Section 17.
- **Elements of Fraud:** (1) False statement (2) Knowledge of falsity (3) Intent to deceive (4) Reliance by the other party (5) Resulting damage. All must be present.
- **Fraud by Suggestion and Concealment:** Examples include odometer fraud, fake documents, and painting over defects. Concealing material facts with intent qualifies as fraud.
- **Not Fraud: Puffery & Opinion:** Exaggerated advertising or personal opinion is not fraud unless it misrepresents material facts or creates false reliance.



Fraud by Concealment & Duty to Disclose

Section 17, ICA – Active vs Passive Silence

- **Active Concealment:** Deliberate actions to hide defects, e.g., painting over cracks in a house, count as fraud. Intent to deceive is key.
- **Passive Silence is Not Fraud:** Mere silence doesn't amount to fraud unless there is a duty to speak. Example: *Keates v. Earl of Cadogan*.
- **When Duty to Disclose Arises:** Duties arise in fiduciary relations, contracts of "uberrimae fidei" i.e. "utmost good faith" (e.g., health insurance), and when one has exclusive knowledge of material facts.
- **Key Case: *Laidlaw v. Organ (1817)*:** Silence about post-war peace affecting tobacco prices was not fraud, as there was no duty to disclose market news.



Misrepresentation in Contract Law

Section 18, Indian Contract Act, 1872



Definition of Misrepresentation

A false statement made innocently or negligently, without intent to deceive, which induces the other party to enter into a contract.



Key Distinction from Fraud

Intent to deceive is absent. Misrepresentation voids consent but does not invite damages unless it involves negligent conduct.



Types of Misrepresentation

Includes positive assertion not warranted by knowledge, breach of duty leading to misleading advantage, and mistaken beliefs caused by another.



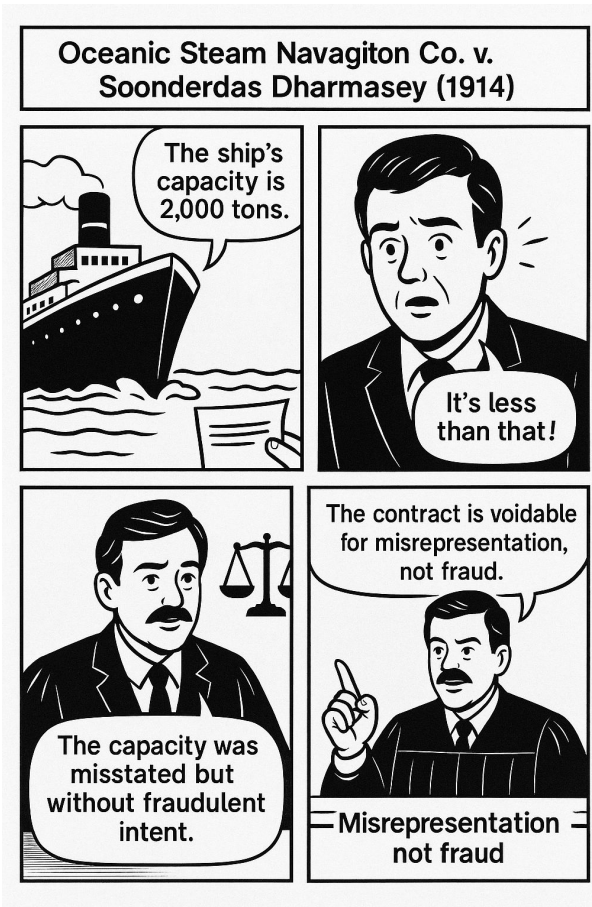
Landmark Case: **Oceanic Steam Navigation v. Soonderdas**

Ship's capacity was misstated without fraudulent intent. Held: Contract was voidable for misrepresentation, not fraud.

Misrepresentation: Mistake & Breach of Duty

Section 18(2) & (3), Indian Contract Act, 1872

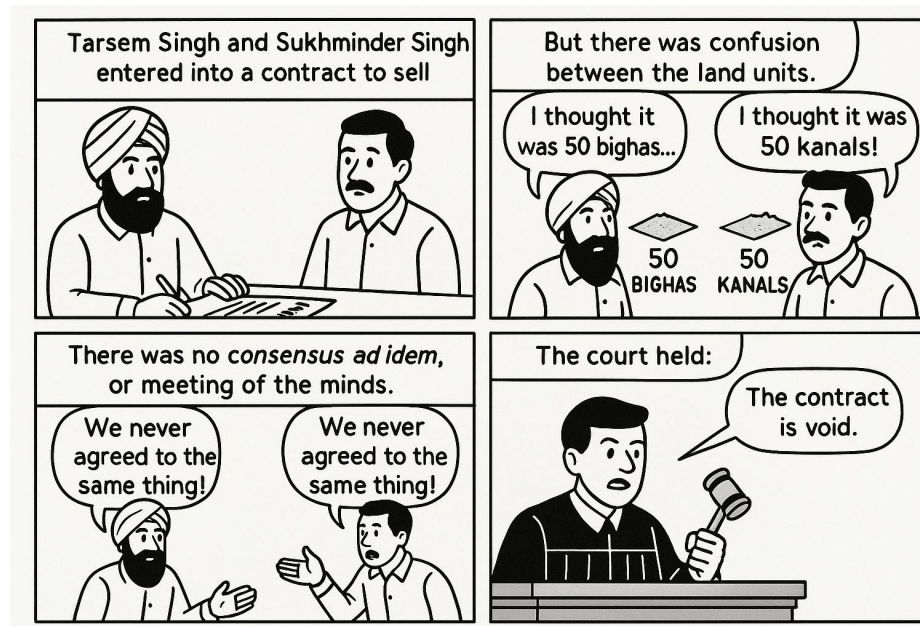
- **Mistake-Induced Misrepresentation:** When a party, even without deceit, causes the other to mistake the substance of the subject-matter, the contract is voidable.
- **Breach of Duty Without Intent:** If a duty-bound party misleads another and gains an advantage—even innocently—it amounts to misrepresentation under Section 18(2).
- **Key Example: Oceanic Steam Navigation:** The ship's tonnage was misstated. Though not fraudulent, the error misled the buyer about essential features—thus vitiating consent.
- **Contracts in Reliance-Based Roles:** Where one party invites reliance (e.g., professionals, fiduciaries), they have an implied duty to provide accurate, complete information.



Mutual Mistake in Contracts

Section 20, ICA – “Consensus ad Idem” Absent

- **Definition & Legal Basis:** A mutual mistake exists when both parties misunderstand each other about an essential fact. Under Section 20, such contracts are void.
- **No Consensus ad Idem:** Without agreement on the same thing in the same sense, there's no 'meeting of minds'—a fundamental requirement for valid contracts.
- **Case: Raffles v. Wichelhaus (Peerless Ship Case):** Two ships named Peerless caused each party to think differently. The court ruled the contract void due to lack of consensus.
- **Indian Case from 1998: Tarsem Singh v. Sukhminder Singh:** Confusion between land units—bighas vs kanals—led to mutual misunderstanding. Contract was held void.



Mistake as to Subject Matter

Misunderstanding Object of Agreement



Nature of Mistake

Occurs when the identity, existence, or essential attributes of the subject matter are misunderstood by both parties.



Case Example: Raffles v. Wichelhaus

Each party referred to different ships named Peerless. This mismatch in understanding invalidated the contract.



Legal Outcome

Such mistakes void the contract as there is no real consensus ad idem. The contract is treated as if it never existed.



Tarsem Singh Case (India)

The parties misunderstood the measurement units (kanals vs bighas). The court found no meeting of minds.

Mistake as to Quality & Identity

Error in Attributes or Party Identity

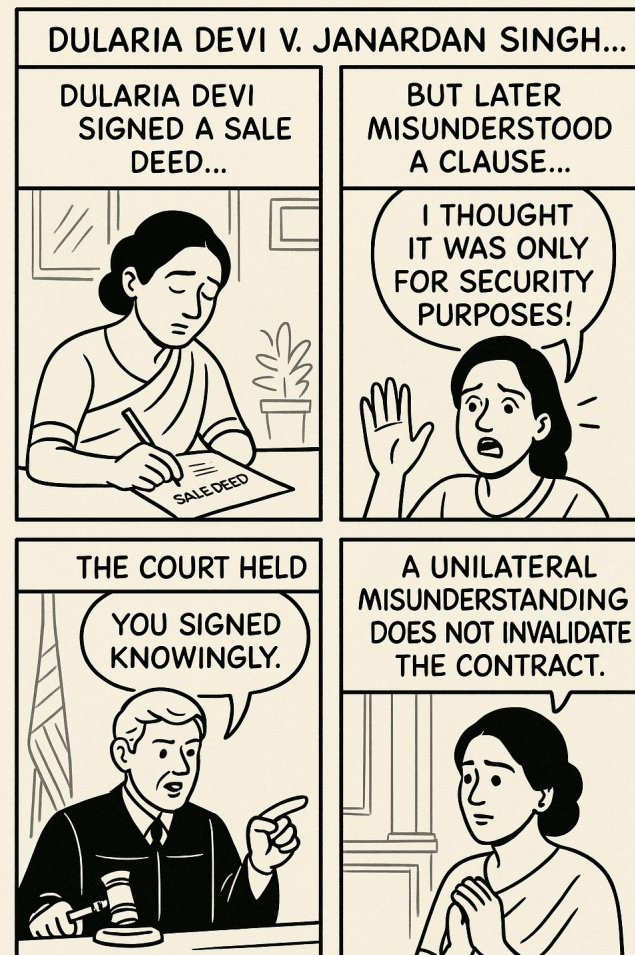
- **Mistake of Quality:** When the subject matter exists, but both parties are mistaken about a fundamental quality, rendering the contract void under limited scenarios.
- **Mistake of Identity:** Occurs when a party believes they are contracting with someone else. Valid only if identity was material to the agreement.
- **Key Case: Smith v. Hughes:** One party mistook the nature of oats. Court held: buyer assumed risk; quality alone does not void contract unless it's fundamental.
- **Indian Case: Shogun Finance v. Hudson:** Fraudulent impersonation of identity by a third party made the contract void. Identity was central to the agreement.



Unilateral Mistake in Contracts

Section 22, Indian Contract Act, 1872

- **Definition & Scope:** A unilateral mistake occurs when only one party is mistaken about a fact. Under Section 22, the contract remains valid unless the mistake affects identity or nature.
- **General Rule: Not Voidable:** Unlike mutual mistake, a unilateral error does not void a contract unless it's fundamental and known to the other party.
- **Key Case: Hartog v. Colin & Shields:** Buyer exploited a price typo. Court held: contract void as buyer knew the seller's true intention and acted dishonestly.
- **Indian Case from 1990 (Patna HC): Dularia Devi v. Janardan Singh:** Plaintiff misunderstood a clause but had signed knowingly. Court held: Unilateral misunderstanding doesn't invalidate contract.



Void vs. Voidable Contracts

Third Party Rights and Legal Consequences



Void Contracts – Section 2(g)

A void contract is null from the beginning and has no legal effect. Third parties gain no rights through void agreements.



Third Party Complications

If a voidable contract is assigned or sold before rescission, bona fide third parties may receive enforceable rights.



Voidable Contracts – Section 2(i)

A voidable contract is valid unless rescinded by the aggrieved party. Rights may pass to third parties if rescission hasn't occurred.



Key Case: Phillips v. Brooks

A fraudster bought jewelry and sold it before rescission. Court upheld third-party title since the original contract was voidable, not void.

Summary: Legal Effects & Remedies

Unit-II: Free Consent – Core Takeaways

Void vs. Voidable

Coercion, undue influence, fraud, and misrepresentation render contracts voidable. Mutual mistake renders them void ab initio.

Damages in Fraud Cases

Fraud allows the injured party to sue for damages in addition to rescission, as per general tort principles.

Restitution and Rescission

Aggrieved parties may rescind the contract and demand restoration under Sections 19–19A of the ICA.

Burden of Proof

Shifts based on nature of defect—e.g., presumption in fiduciary cases or known exploitation in unilateral mistake.

Conclusion & References

Unit II: Free Consent – Final Notes



Key Learning Outcomes

Understanding how coercion, undue influence, fraud, misrepresentation, and mistake affect consent and contract validity.



Statutes Referenced

Indian Contract Act, 1872 (Sections 13–22, 19–19A), Indian Penal Code, Indian Majority Act, Specific Relief Act.



Practical Relevance

These doctrines safeguard fairness and voluntary agreement in transactions—vital in both personal and commercial contexts.



Primary Case Laws

Chikham Amiraju, Bundy, Oceanic Steam Navigation, Raffles v. Wichelhaus, Phillips v. Brooks, and others.