

Indian Contract Act , 1872

(Act No 9 of 1872 including XI Chapters 266 Sections)

Preamble :- Whereas it is expedient to define amend certain parts of law relating to contract.

Date of enactment :- 25th April, 1872

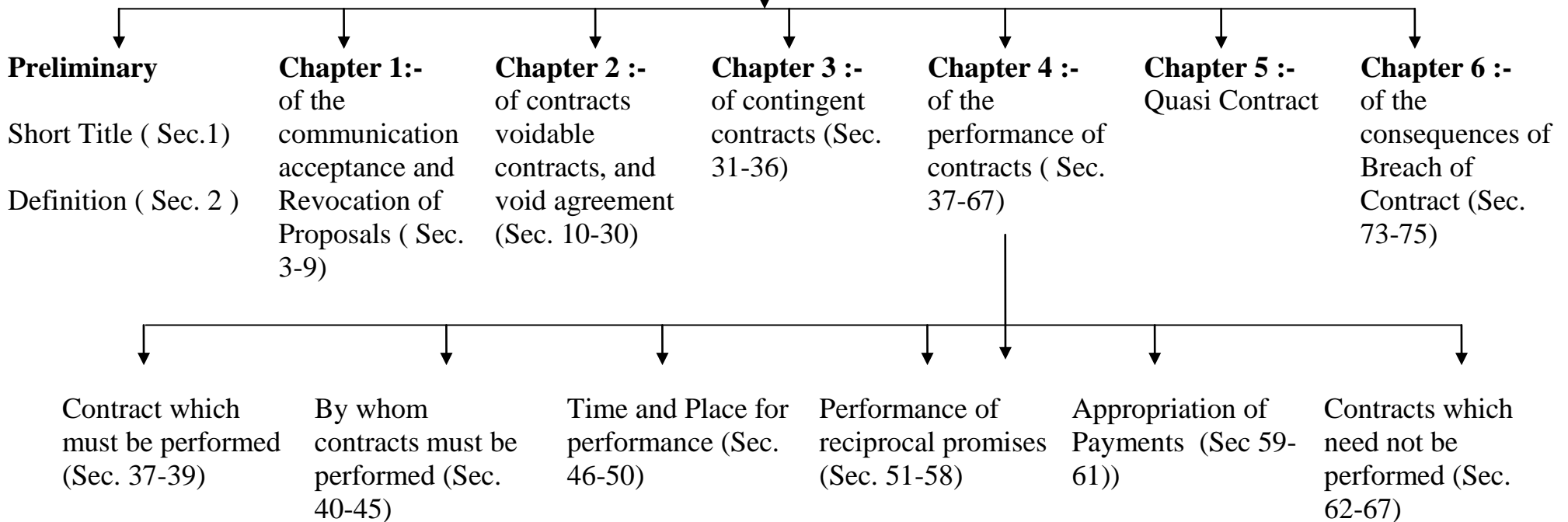
Date of enforcement :- 1st September, 1872

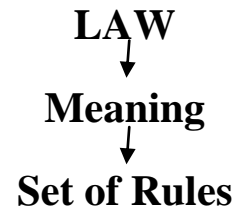
Draft by :- Lord Romilly

(Second Law Commission (1863-1866)

Extent :- Whole of India

General Principles of Contract – I



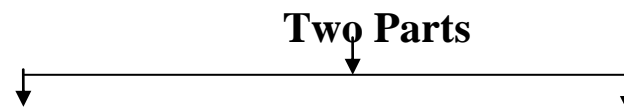


Meaning of Law :- Law means a “set of rules” which governs our behaviors and relating in a civilized society.

Law of Contract creates *jus in personem* and not in *jus in rem*.

Prior of this English Law of Contract was followed in India.

The Indian Contract Act consists of the following



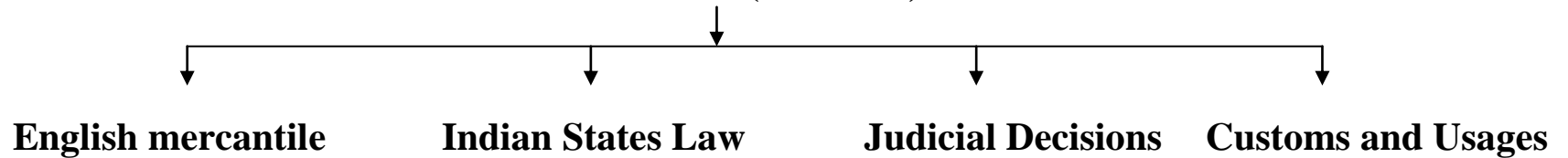
<p>General Principle of Contract (Sec. 1 to 75) :- These principles apply to all kinds of contracts irrespective of their nature.</p>	<p>Specific Contract (Sec.124-238) :- These specific contracts are indemnity , Guarantee , Bailment , Pledge and Agency.</p>
---	--

Definitions :-

- 1- **According to Pollock :-** “ Every agreement and promise enforceable at law is a contract.”
- 2- **According to Salmond :-** “ A contract is an agreement creating and defining obligation between the parties.”
- 3- **According to Sec. 2(h) of contract Act, 1872** An agreement enforceable by law is a contract.”

S.No.	PART	CHAPTERS	SECTIONS	SUBJECT
A	General Principles	Preliminary	1-2	General
		Chapter 1	3-9	Proposal, Acceptance and Revocation
		Chapter 2	10-30	General Rules about Contract
		Chapter 3	31-36	Contingent Contract
		Chapter 4	37-67	Of the performance of contract
		Chapter 5	68-72	Quasi – Contract
		Chapter 6	73-75	Contractual Remedies
B	Specific Contract	Chapter 8	124-147	Contract Of Indemnity and Guarantee
		Chapter 9	148-181	Contract of Bailment and Pledge
		Chapter 10	182-238	Agency

Sources of Mercantile (Contract) Law in India



Essentials of a Valid Contract

All agreements are contracts , if they are made:-

1- Proper offer and proper acceptance with intention of create legal relationship

Case :- Balfour V Balfour (1919) 2 K.B. 571

2- Lawful consideration:- Price paid by the one party for the promise of the other. Technical word meaning QUID – PRO – QUO i.e., something in return .

Case :- Durga Prasad V Baldev (1880) 3 All. 221

3- Capacity :- (Sec.11)

4- Free consent :- Consent means agreed upon something in the same sense i.e. there should be consensus – ad – idem. A consent is said to be free when it is not caused by coercion , undue influence , fraud , misrepresentation or mistake.

Case :- Ammiraju V Seshmma (1917) 41 Madras 33

5- Lawful object :-

6- Possibility of persormance :-

7- The terms of the agreements are certain or are capable of being made certain (Sec.29)

8- Not declared void :-

The agreement should be such that it should be capable or being enforced by law.

Certain agreements have been expressly declared illegal or void by the law.

9- Necessary Legal Formalities :-

A contract may be oral or in writing.

If legal formalities are not carried out then the contract is not enforceable by law.

Ex:- A promise to pay a time barred debt must be in writing.

"All contracts are Agreements, but all Agreement are not Contracts."

Proposal + Acceptance = Promise (Sec. 2 (c)

(Sec 2(a) (Sec.2(b)

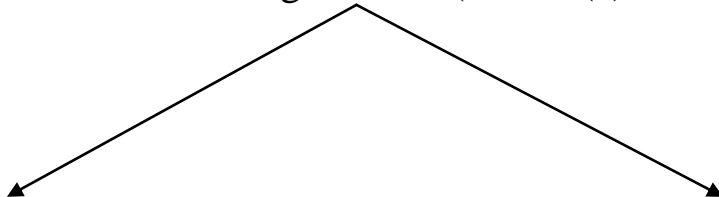


+

Consideration (Sec. 2 (d)



Agreement (Sec. 2 (e)



In enforceable by law

If not enforceable by law



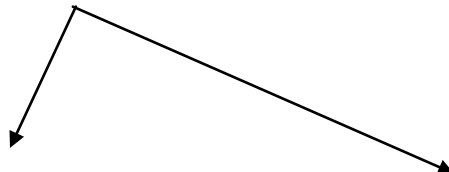
All essential of a valid contract are **available**

Any essential of a valid contract is not available

Contract (Sec. 2(h) :-

void agreement

(Sec. 2 (g)



Void Contract

Voidable Contract

Sec. 2 (J)

(Sec.2 (I)

Deference between Contract and Agreement :-

S.No.	BASIS	CONTRACT	AGREEMENT
1	Section	Sec 2 (h)	Sec 2 (e)
2	Definition	A contract is an agreement enforceable by law	Every promise or every set of promises forming consideration for each other is an agreement
3	Enforceability	Every contract is enforceable	Every promise is not enforceable
4	Inter relationship	A contract includes an agreement	An agreement doesn't include a contract
5	Scope	The scope of contract is limited, as it includes only commercial agreements	Its scope is relatively wider, as it includes both social agreement and commercial agreements.
6	Validity	Only legal agreement are called contracts	An agreement may be both legal and illegal.
7	Legal Obligation	Every contract contains a legal obligation	It is not necessary for every agreement to have legal obligation.

Conclusion:- Thus we see that an agreement may be or may not be enforceable by law, and so all agreement are not contract. Only those agreements are contract which are enforceable by law.

Hence, we can conclude “ All contracts are agreement, but all agreements are not contracts.”

Compiled by
Dr. Vikas Kumar
Assistant Professor
ILS, CCSU campus, Meerut
For further queries you may reach us via..
E-mail - vikasrathimrt@gmail.com
Mob - 9058459666