

Expressly Declared Void Agreements

There are certain essential elements of a valid contract. And if those elements are not present, the contract would then be void or voidable. However, there are certain agreements that are expressly void agreements. This means these agreements that are declared void by the law itself.

Expressly Void Agreements

The Indian Contract Act 1872 defines a void agreement as “an agreement that is not enforceable by law”. And there can be many times of void agreements, some of which we have covered in the previous articles as sec 11,20,23,24 and 25. But the contract states certain agreements that are expressly declared as void agreements.

1] Agreement in Restraint of Marriage (sec 26)

Any agreement that restrains the marriage of a major (adult) is a void agreement. This does not apply to minors. But if an adult agrees for some consideration not to marry, such an agreement is expressly a void agreement according to the contract act.

Example: - A agrees that if B pays him 50,000/- he will not marry such an agreement is a void agreement.

2] Agreement in Restraint of Trade (sec 27)

An agreement by which any person is restrained from plying a trade or practicing a legal profession or exercising a business of any kind is an expressly void agreement. Such an agreement violates the constitutional rights of a person. However, there are a few exceptions to this rule. If a person sells his business along with the goodwill then the buyer can ask the seller to refrain from practicing the same business at the local limits.

So if according to such an agreement as long as the buyer or his successor carries on such a business the agreement to restrain the trade of the seller will be valid. Similarly, if an outgoing partner can enter into such a restraint of a trade agreement with the partnership firm. Also, a contract between partners not to carry out any competing business during the continuance of a partnership is also a valid contract.

One point to keep in mind regarding the above agreements is that the terms of such an agreement have to be reasonable. Such reasonable terms are not defined under the act but are to be judged according to each unique situation and circumstance.

Example: - The case of physician A who employs B as his assistant for three years. For this duration of three years, B agrees not to practice medicine anywhere else. This is a valid agreement even though it is in restraint of trade.

But say A a lawyer sells his legal practice to B along with the goodwill. And A agrees never to practice as a lawyer anywhere in the state for the next 20 years. This is not a valid agreement since the terms are completely unreasonable.

3] Agreement in Restraint of Legal Proceedings (sec 28)

An agreement that prevents one party from enforcing his legal rights under a contract through the legal process (of courts, arbitration, etc) then such an agreement is expressly void agreement. However, there are exceptions like, if the agreement states that any dispute between parties will be referred to arbitration and the amount awarded in such arbitration will be final will be a valid contract . Also if the parties agree that any dispute between them in the present or the future will be referred to arbitration, then such an agreement is also valid. But such a contract has to be in writing.

4] An Agreement Whose Meaning is Uncertain (sec 29)

An agreement whose meaning is uncertain cannot be a valid agreement, it is a void agreement. If the essential meaning of the contract is not assured, obviously the contract cannot go ahead. But if such uncertainty can be removed, then the contract becomes valid.

Example: - A agrees to sell to B 100 kg of fruit. This is a void contract since what type of fruit is not mentioned. But if A exclusively sells only oranges then the agreement would be valid because the meaning would now be certain.

5] Wagering Agreements (sec 30)

According to the Indian Contract Act, an agreement to wager is a void agreement. The basis of a wager is that the agreement depends on the happening or non-happening of an uncertain event. Here each side would either win or lose money depending on the outcome of such an uncertain event. The essentials of a wagering agreement are as follows. If all elements are met then the agreement will be void.

- Must contain a promise to pay money or money's worth
- Is conditional on the happening or non-happening of a certain event
- The event must be uncertain. Neither party can have any control over it
- Must be the common intention to bet at the time of making the agreement
- Parties should have no other interest other than the stake of the bet

The following agreements are not considered wagering agreements,

- i. Chit Fund

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- ii. Commercial Transactions, i.e Transactions of the Share Market
- iii. Athletic Competition and Competitions involving Skills
- iv. Insurance Contracts

6] Agreement Contingent on Impossible Events (sec 36)

“Contingent agreements to do or not to do anything if an impossible event happens are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.”

Examples:-

- (a) A agrees to pay B Rs.1000 (as a loan) if two straight lines should enclose a space. The agreement is void.
- (b) A agrees to pay B Rs.1000 (as a loan) if B will marry A's daughter, C. C was dead at the time of the agreement, the agreement is void.

7] Agreements to do Impossible Act (sec 56)

“An agreement to do an act impossible in itself is void.”

Examples:-

- (a) A agrees with B to discover treasure by magic. The agreement is void.
- (b) A agrees with B to run with a speed of 100 Kilometers per hour. The agreement is void.