
DOCTRINE OF FRUSTRATION UNDER THE INDIAN CONTRACT ACT, 1872

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Abstract

In general situation, anger means lost, and this concept has been commonly used in parties' negotiations and contracts. The word dissatisfaction is used to deal with purchases that were incomplete and could not be done for whatever reason. The doctrine of dissatisfaction has arisen in the law of contracts as one of the most common problems that have come to resolve broken contracts. As a general rule, contracting parties agree to play their part and in the event of violation, the infringement of the party is liable to pay for the same. However, Section 56 of the Indian Contract Act 1872 points out an exception to this clause. Section 56 deals with the doctrine of dissatisfaction as actions that are not possible to execute. Under this doctrine, in the case of a violation of contract, a promisor is deprived of all obligation under a contract and may be declared invalid.

Keywords: - Breach; Doctrine; Frustration; Indian Contract Act, 1872; Section 56.

I. INTRODUCTION

Frustration is an act outside of the contract, which makes it difficult to fulfil a contract. After a contract has been signed by the parties, circumstances outside their influence can arise that frustrate the intent of their agreement or make it extremely difficult or impractical, or even unlawful, to carry out the contract. An example of this is where, once the deal has been signed, a hall that has been reserved for the production of a play is ruined by fire, but before the performance date of the play[1].

Like several other laws, the root of the 'Doctrine of Indignation' was from Roman laws. It was part of the Roman contract law that extinguished innocent parties' obligations where the 'item is lost without the act or default of the debtor' and the object of the contract has ceased to be attainable.' In Roman times, for example, it was used to shield a man who vowed to deliver a slave by a certain day if the slave died before delivery, from responsibility[1].

In the case of Taylor vs. Cardwell in 1863, years later in England, it was held that when an opera house leased for concerts was destroyed by arson, the arrangement was frustrated. This was because the exact thing that the deal relied on ceased to exist. It was also held that it would be in order for the doctrine of dissatisfaction to be such that the essence of the contract is such that if anything ceased to exist, it would not function[2].

In India, the doctrine of dissatisfaction is present. 56 of the Act 1852 of the Indian Contract. It specifies if every act to be committed after the contract is made is illegal or difficult to execute, such if the promisor does not avoid it, then it would void such an act that becomes unreasonable or unlawful. It creates a code of positive law and does not leave the matter to be resolved in accordance with the parties' wishes. Clearly, this section should not refer to a situation where, while the consideration of the deal is lost, it is always possible to satisfy the obligation from the other hand[2].

The Supreme Court stated in *Satyabrata v. Mugneeram* that different interpretations have been put forward about the legal foundations of the doctrine of dissatisfaction, but the basic principle on which the doctrine is based is that the contract cannot be enforced. In fact, success and anger are always difficult to convey interchangeably. U/s 56 also clarified the meaning of the word 'impossible'. In relation to English law, the Supreme Court made it clear that the term unlikely was not used in the sense of physical or literal impossibility[3].

From the point of view of the object, the execution of an act can be impracticable and meaningless, and the courts have to determine if it forms the basis of the contract correctly. It was also found in *Sushila Devi vs. Hari Singh* that the impossibility envisaged by section 56 of the Contract Act is not limited to anything that is not humanly conceivable. As it was a case of land rental, the property in question, which was based in Gujranwala, went on the side of Pakistan after the unfortunate partition, rendering the terms of the arrangement unlikely[3].

Nirmala Anand vs. Advent Company Pvt. in another Supreme Court case. The lawsuit involved a suit for precise fulfillment of a deal for the purchase of an apartment in a house on a plot rented out by the municipality. The court held that, unless the competent authorities were moved and the request for consent or penalty was rejected once and for all and that the rejection finally became irresolutely binding and rendered impossible the performance of the contract resulting in frustration 56, the relief cannot be rejected on the basis that certain obstacles were identified[4].

It is well settled that at the moment of the frustrating case, anger immediately puts the deal to an end. In comparison to discharge by breach of contract, this is where the innocent party may choose whether to repudiate the contract. In comparison, a contract that is discharged by anger is clearly distinct from one that is free of error. Until the time of the supervening case, a frustrated contract is legitimate but is immediately cancelled thereafter, whereas a contract invalid on the grounds of fault is a total nullity from the outset[5].

II. DISCUSSION

The requirements needed for the implementation of the provisions of Section 566

A legal and subsistent contract exists between the parties: - The presence of a valid contract is a key prerequisite for the enforcement of the provisions of Section 56. A contract entered into by qualified persons and which is accompanied by any consideration shall be included in the valid contract[6].

There must be a portion of the contract that is yet to be fulfilled: - Section 56 would be valid only if there is a part of the contract that is yet to be fulfilled and the overall object of the contract is not fulfilled without completing it[6].

The contract becomes difficult to execute until it is concluded: - Another important condition for the implementation of section 56 is that the contract has become impossible to perform after it has been entered into and cannot be executed, and thus the contract is invalid[7].

In general, contract dissatisfaction can be, in the following situations,

Death or incapacity of a partner: - If, after entering into a contract, a party to the contract has expired or is unable to satisfy the contract, the contract would be invalid in such a case (Robinson v Davison)[7].

Frustration on the basis of legislation: - If a statute promulgated after the deal has been signed makes it difficult to satisfy the agreement and therefore the agreement becomes null (Rozan Mian v Tahera Begum)[7].

Frustration due to change of circumstances: - This peculiar condition deals with certain situations where there was no physical impossibility of fulfillment of the contract, but the key reason with which the contract was signed was defeated because of the change of circumstances.

The doctrine of dissatisfaction is only valid in situations of subsequent impossibility and where, from the very outset, the contract was difficult to satisfy, in the absence of implementation of the doctrine; however, this doctrine is therefore not applicable in cases where there has been a simple pause of execution and the contract can still be executed.

Initial impossibility: - The aim of any contract is to guarantee that the parties to the contract meet their respective obligations and, if the contract is difficult to fulfill, the parties will never enter into the contract. Original impossibility deals with certain situations where, from the very outset, the contract was difficult to execute. For eg, if a married man promises to do so, recognizing that he will not marry again, then he is obliged to pay the other party[8].

Subsequent impossibility: - It deals with situations where it was possible to execute the contract before it was entered into, however the performance is impractical or unconstitutional due to some incident, and so it discharges the party from performing it. If A bought B tickets for attending a cricket match, for instance, and he spends 50 percent as an advance. If the match is postponed, so A is unlikely to rebound from B, because the match cancellation was beyond A's influence[8].

The annoyance doctrine is based on the Lex non cogit ad Impossibilia maxim. It suggests that 'The statute does not push the impossible.' There is a basic presumption in a contract between the two parties that the execution of the contract relies on the continuing life of the person or object involved and that any impossibility occurring later on (by the perishing of the person or thing) excuses the performance of the contractual duty. In all contracts, such a provision is implicit[8].

The theory of dissatisfaction is applicable where it is claimed that a change in conditions after the completion of the contract made it practically or financially difficult to execute the contract or turned the performance demanded into a task significantly different from that performed in the contract. The doctrine is not concerned with an original impossibility which will make the contract invalid ab initio, as if a party to a contract undertakes to execute an act which, according to current scientific understanding and achievement, is theoretically difficult to perform at the moment the contract is concluded[8].

An arrangement to make an act unlikely is invalid in itself. A commitment to perform an act that becomes impossible after the contract is made or, because of any circumstance that the promisor may not avert, unlawful, becomes invalid when the act becomes impossible or unlawful, where a party has agreed to do something that he knew or might have known with due caution, and which the promise did not know to be impossible or unlawful[9].

S. is present in the doctrine of anger. 56 of the Act 1852 of the Indian Contract. It specifies if every act to be committed after the contract is made is illegal or difficult to execute, such if the promisor does not avoid it, then it would void such an act that becomes unreasonable or unlawful. The Supreme Court found out that since the non-performance of the deal was due to his own decision, the claimant should not invoke the doctrine of dissatisfaction[9].

When a contract becomes difficult to fulfill after it is made due to situations outside the control of the parties or the alteration in circumstances renders the execution of the contract impossible, the doctrine of dissatisfaction falls into effect. Where the Court considers that the entire object or foundation of the contract has been frustrated by the interference or occurrence of an unforeseen event or by a change of circumstances not anticipated by the parties at the date of the contract, the Court may grant relief on the ground of subsequent impossibility[9].

III. CONCLUSION & IMPLICATION

The theory of frustration as enshrined in Section 56 of the Indian Contract Act 1872 deals with those situations where the success of the contract has been frustrated and, due to some inevitable cause or circumstance, the performance of it has become difficult to perform. This doctrine is viewed as an exception to the general rule which, in the event of violation of contract, provides for compensation. But only cases of subsequent impossibility are dealt with in section 56, as opposed to cases of original impossibility.

IV. REFERENCES: -

- [1] A. P. Jackson, *The Roots of Military Doctrine: Change and Continuity in Understanding the Practice of Warfare*. 2013.
- [2] S. Wilson, "Terminating contracts," *J. Build. Apprais.*, 2009, doi: 10.1057/jba.2008.44.
- [3] J. S. Nachatar, A. A. Hussin, and A. Omran, "Frustration of Contract in the Malaysian Construction Contract Management," *Int. J. Eng.*, 2011.
- [4] A. A. Schwartz, "A 'standard clause analysis' of the frustration doctrine and the material adverse change clause," *UCLA Law Review*. 2010.

- [5] A. Peters, "International Dispute Settlement: A Network of Cooperational Duties," *Eur. J. Int. Law*, 2003, doi: 10.1093/ejil/14.1.1.
- [6] D. Kaufmann, F. Soler, B. Permesly, and D. Cohen, "A Franchisor is not the Employer of its Franchisees or their Employees," *Franch. Law J.*, 2015.
- [7] E. Macdonald, R. Atkins, E. Macdonald, and R. Atkins, "19. The doctrine of frustration," in *Koffman & Macdonald's Law of Contract*, 2014.
- [8] E. W. Abd and E. H. Ahmed, "Freedom of Contract, the Doctrine of Frustration, and Sanctity of Contracts in Sudan Law and Islamic Law," *Arab Law Q.*, 1985, doi: 10.1163/157302585X00392.
- [9] A. Phang, "Doctrine and fairness in the law of contract," *Leg. Stud.*, 2009, doi: 10.1111/j.1748-121X.2009.00140.x.