



FREE CONSENT

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MEANING OF CONSENT

- It means act of assenting to an offer.
- “Two or more persons are said to consent when they agree upon the same thing in the same sense” (Sec. 13)
- It is essential to the creation of a contract that the parties are ad idem.
- They agree upon same sense thing in the same sense at the same time and that their consent is free or real.



MEANING OF FREE CONSENT

– CONSENT IS SAID TO BE FREE WHEN IST IS NOT CAUSED BY :

- 1.Coercion as define in Sec. 15
2. Undue Influence as define in Sec. 16
3. Fraud as define in Sec. 17
4. Misrepresentation as define in Sec. 18 ,
5. Mistake , subject to the provisions of Secs. 20,21 and 22 (Sec. 14)

COERCION

“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 (sec. 15).

A threat to commit suicide amounts to coercion.



UNDUE INFLUENCE

- 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 over the other.



RELATONSHIPS WHICH RAISE PRESUMPTION OF UNDUE INFLUENCE

- 1) Parent and child
- 2) Trustee and beneficiary
- 3) Religious guru and disciple
- 4) Guardian and ward
- 5) Solicitor and client
- 6) Doctor and patient
- 7) Fiance and fiancée.



MISREPRESENTATION

- “Misrepresentation” is a mis-statement of a material fact made innocently with an honest belief as to its truth or non-disclosure of a material fact , without any intent to deceive the other party.



FRAUD

– “Fraud” exists when it is shown that a false representation has been made.

- 1) Knowingly
- 2) Without belief in its truth
- 3) Recklessly not caring whether it is true or false
- 4) The maker intends the other party to act upon it .

It also exists when there is a concealment of the material fact.



MISTAKE

- Mistake is erroneous belief about something . It may be a
- (1) mistake of law, or
- (2) mistake of fact .



Thank you