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**31. “Contingent contract” defined** — A “contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

Illustration

A contracts to pay B Rs. 10,000 if B’s house is burnt. This is a contingent contract.

**32. Enforcement of contracts contingent on an event happening** — Contingent contracts to do or not to do anything if an uncertain future event happens cannot be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void.

Illustrations

(a) A makes a contract with B to buy B’s horse if A survives C. This contract cannot be enforced by law unless and until C dies in A’s lifetime.

(b) A makes a contract with B to sell a horse to B at a specified price, if C, to whom the horse has been offered, refuses to buy him. The contract cannot be enforced by law unless and until C refuses to buy the horse.

(c) A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

**33. Enforcement of contracts contingent on an event not happening** — Contingent contracts to do or not to do anything if an uncertain future event does not happen can be enforced when the happening of that event becomes impossible, and not before. Illustration A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

**34. When event on which contract is contingent to be deemed impossible, if it is the future conduct of a living person** — If the future event on which a contract is contingent is the way in which a person will act at an unspecified time, the event shall be considered to become impossible when such person does anything which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies.

Illustration

A agrees to pay B a sum of money if B marries C. C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die and that C may afterwards marry B.

**35. When contracts become void which are contingent on happening of specified event within fixed time** — Contingent contracts to do or not to do anything if a specified uncertain event happens within a fixed time become void if, at the expiration of the time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

**When contracts may be enforced, which are contingent on specified event not happening within fixed time** — Contingent contracts to do or not to do anything, if a specified uncertain event does not happen within a fixed time may be enforced by law when the time fixed has expired and such event has not happened or, before the time fixed has expired, if it becomes certain that such event will not happen.

Illustrations

(a) A promises to pay B a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within the year, and becomes void if the ship is burnt within the year.

(b) A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

**36. Agreement contingent on impossible events void** — Contingent agreements to do or not to do anything, if an impossible event happens, are void, whether the impossibility of

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the event is known or not to the parties to the agreement at the time when it is made.

Illustrations

(a) A agrees to pay B 1,000 rupees if two straight lines should enclose a space. The agreement is void.

(b) A agrees to pay B 1,000 rupees if B will marry A's daughter C. C was dead at the time of the agreement. The agreement is void.

## What is a Contingent Contract?

A contingent contract is a contract to do or not to do something if some event, collateral to such contract, does or does not happen (section 31). For example, A contracts to pay B Rs. 10,000 if B's house is burnt. This is a contingent contract.

The following are the essential features of a contingent contract.

- 1 The performance of a contingent contract is made dependent upon the happening or non-happening of some event.
- 2 The event on which the performance is made to depend, is an event collateral to the contract i.e., it does not form part of the reciprocal promises which constitute the contract. For example, where A agrees to deliver 100 bags of wheat and B agrees to pay the price only afterwards, the contract is a conditional contract and not contingent, because the event on which B's obligation is made to depend is a part of the promise itself and not a collateral event. Similarly, where A promises to pay B Rs. 10,000 if he marries C, it is not a contingent contract.
- 3 The contingent event should not be the mere will of the promisor. For instance, if A promises to pay B Rs. 1,000 if he so chooses, it is not a contingent contract. However, where the event is within the promisor's will but not merely his will, it may be a contingent contract. For example, if A promises to pay B Rs. 1,000 if A left Delhi for Bombay, it is a contingent contract,

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because going to Bombay is an event no doubt within A's will, but is not merely his will.

## **What are the rules regarding enforcement of contingent contracts?**

The rules regarding contingent contracts are summarised hereunder (sections 32 to 36):

1] Contracts contingent upon the happening of a future uncertain event cannot be enforced by law unless and until that event has happened. And if, the event becomes impossible, such contract becomes void (**section 32**).

### Examples

i) A makes a contract with B to buy B's horse if A survives C. This contract cannot be enforced by law unless and until C dies in A's life-time.

ii) A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

2] Contracts contingent upon the non-happening of a certain future event can be enforced when the happening of that event becomes impossible, and not before (**section 33**). For example, A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

3] If a contract is contingent upon as to how a person will act at an unspecified time, the event shall be considered to become impossible when such person does anything, which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies. (**section 34**). For example, A agrees to pay B a sum of money if B marries C. But

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C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die and that C may afterwards marry B.

4] Contracts contingent upon the happening of an uncertain specified event within a fixed time become void if, at the expiration of the time fixed, such event has not happened or if, before the time fixed, such event becomes impossible (**section 35**) For example, A promises to pay B a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within the year, and becomes void if the ship is burnt within the year.

5] Contracts contingent upon the non-happening of a specified event within a fixed time may be enforced by law when the time fixed has expired and such event has not happened, or before the time fixed expired, if it becomes certain that such event will not happen (**section 35**). For example, A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

6] Contingent agreement 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

i) A agrees to pay B Rs.1,000 if two parallel straight lines should enclose a space. The agreement is void.

ii) A agrees to pay B Rs. 1,000 if B will marry A's daughter C and C was dead at the time of the agreement. The agreement is void.

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**What is the difference between a contingent contract and a wagering agreement?**

- 1] A wagering agreement consists of reciprocal promises while a contingent contract may not consist of reciprocal promises.
- 2] A wagering agreement is of a contingent nature while a contingent contract may not be of a wagering nature.
- 3] A wagering agreement is void while a contingent contract is valid.
- 4] In a wagering agreement parties have no other interest in the subject matter except for winning or losing of wagering amount while it is not so in contingent contracts.
- 5] In a wagering agreement the future event is the sole determining factor while in a contingent contract future event is only collateral.

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