

The Elements of a Binding Contract

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Abstract

The law of contract lays down the rules that guide how parties enter into a contract and how such contracts are terminated. For a contract to be binding to both parties there has to be a consideration, which means that each party has to part with something. However, there are exceptions to this rule. The parties to a contract also have to reveal all the details material to the contract. If one party knowingly refrains from giving out the correct details, the aggrieved party can sue for damages. However, sometimes both parties are not alive to all the material details (mutual mistake), and in such cases, the contract is voidable because there was no *ad idem*. In some cases, one party may enter into a contract without the necessary knowledge relating to the contract (unilateral mistake), and this does not affect the contract if it is clear that the other party did not knowingly misrepresent the material facts and the aggrieved party did not act reasonably.

Keywords: contract, parties, damages, material, mistake, misrepresentation

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In hindsight, the salesperson at MacKintosh was not aware that he was making a mistake. However, it was a mistake to claim that the car was in good condition because this was an assumption. Lester depended on that assertion to enter into the contract. Typically, mistakes made by a party unknowingly when entering a contract do not affect the contract due to the doctrine of unilateral mistake. (Twomey and Jennings, 2014). However, in this scenario, the customer could not have known about the condition of the car, and therefore, the company should pay Lester damages.

Lester can also sue the salesperson on the grounds of negligent misrepresentation since the concept applies in situations where one party makes a false statement out of carelessness (Twomey and Jennings, 2014). Despite its similarity to the concept of fraud, it is highly applicable in this case because the salesperson made a false statement and did not bother to ascertain the truth. Also, the defense presented by the company was baseless because it does not account for the abandon of duty portrayed by the salesperson. Therefore, it does not matter if the salesperson did not know he was making a mistake and did not mean to harm Lester. The mere fact that Lester was harmed financially means that the contract can be considered void and Lester can be compensated for his losses.

Odessa's contention does not fully satisfy the definition of consideration. According to Twomey and Jennings (2014) promises made based on moral obligation do not hold up in a court of law because they do not have any consideration. Consideration defines what each party must give up in the process of making a contract. In this scenario, Sarah only promised to pay Odessa \$1000 out of mere gratitude. Therefore, no contracts were drafted, and neither party had to give

up anything hence their agreement cannot be enforced in a court of law. Furthermore, Sarah and Odessa did not have an agreement-whether written, or oral-which would bind Sarah to her promise. Odessa does not have any basis on which to enforce the promise because it was made from moral courtesy. Odessa's case would therefore not hold up in a court of law because it does not satisfy any of the stipulated laws.

Consideration means that each party must give up something during formation of the contract (Twomey and Jennings, 2014). William can argue that he forewent his habits, which he used to enjoy for the sake of the promise made to him by his uncle. According to the law of contract, forbearance is one type of consideration. In this case, William refrained from engaging in alcohol and stimulants use for the period stipulated by his uncle, and as such he lives up to his end of the bargain. This is in line with the landmark case of *Hamer v. Sidway*, 124 N.Y. 538, 27 N.E. 256 (N.Y. 1891), where the courts ruled that forbearance is a type of consideration. Another rule that applies in the case is the Benefit-Detriment Approach. It states that the promisor must incur some losses if the promisee meets the requirements set by the former (Twomey and Jennings 2014). In his case, William met all the requirements his uncle made, and therefore according to the definition of consideration, he deserves compensation for his efforts regardless of whether he was benefitting from withdrawal or not.

References

Twomey, D. and Jennings, M. (2014). *Anderson's Business Law and the Legal Environment*,
22nd Ed. Cengage Learning.

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