



## PAPER – 2: BUSINESS LAWS

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### QUESTIONS

#### Indian Regulatory Framework

1. Describe the major functions of the Reserve Bank of India (RBI) in regulating the Indian economy. How does it manage currency, payment systems and economic development?

#### The Indian Contract Act, 1872

2. Mr. Naman is an auctioneer. He advertised in a leading newspaper that an auction would be held on 17th April, 2025, in Agra for the sale of some office furniture. Mr. Kanha read the advertisement and travelled about 500 kilometres to attend the auction. When he reached the place of the auction, he found that the furniture had been withdrawn from the sale. Mr. Kanha sued Mr. Naman for the loss of his time and expenses.

State, with reasons, whether Mr. Kanha can claim compensation from Mr. Naman under the provisions of the Indian Contract Act, 1872.

3. Abhimanyu, a businessman, lost his important documents at a crowded railway station. Ramesh, a passerby, voluntarily collected the documents and returned them safely to Abhimanyu without expecting any reward. A week later, impressed by Ramesh's honesty, Abhimanyu wrote and signed a promise to pay him ₹50,000 as a reward. Later, Abhimanyu refused to pay, arguing that the act had already been performed voluntarily and therefore did not constitute valid consideration. Ramesh filed a case claiming that the promise was binding. Decide, under the Indian Contract Act, 1872, whether Abhimanyu is liable to pay.

4. Vikas, a businessman from Delhi, entered into an agreement with Reddy, a trader from Hyderabad, to smuggle a large consignment of gold into India in violation of customs laws. As per the terms, Reddy would arrange the smuggling operation, while Vikas promised to provide financial support and safe storage facilities. Both agreed to share the profits equally. The agreement also stated that Reddy would invest a portion of his profit in Vikas's legitimate textile business, which was a lawful activity.

After the first successful operation, a dispute arose between the parties. Vikas received the smuggled gold but refused to share the profits, arguing that the agreement was unlawful. Reddy filed a suit for enforcement, claiming that at least the lawful portion of the agreement relating to the textile business should be upheld. Decide whether the agreement is enforceable under the Indian Contract Act, 1872?

5. Mr. Lal, a well-known builder, entered into a contract with Mr. Kumar, a property developer, to construct a large shopping mall in Jaipur for a total consideration of ₹ 10 crores, to be completed within 18 months. After the work began, both parties mutually decided to alter the nature of their agreement. By mutual consent, a new contract was substituted, under which Mr. Lal would instead construct a five-star luxury hotel on the same land for an increased price of ₹12 crores. This new agreement expressly cancelled the earlier mall contract.

However, six months after the new agreement was executed, the State Government, under its Urban Development Policy, passed a law prohibiting the construction of hotels in that particular commercial zone, though the construction of shopping malls was still permitted. Due to this prohibition, Mr. Lal stopped the construction work and informed Mr. Kumar that the contract had become impossible to perform. Mr. Kumar, however, filed a suit against Mr. Lal for breach of the new contract, demanding damages on the ground that Mr. Lal had failed to perform his obligation.

Decide, under the provisions of the Indian Contract Act, 1872, whether Mr. Lal is liable for breach of contract or whether the contract has become void due to impossibility.

6. Mr. Ramesh delivered his gold ornaments to a jeweller, Mr. Arun, for polishing. Arun kept the ornaments in the locker of his shop and locked the premises before leaving. Unfortunately, during the night, some thieves broke into the shop and stole the ornaments. When Ramesh asked for the return of his ornaments, Arun expressed his inability and stated that he had taken as much care of the goods as he would have taken of his own property. Ramesh, however, claimed compensation for the loss on the ground that the ornaments were delivered under a contract of bailment and that the bailee was bound to return them.

Decide, under the provisions of the Indian Contract Act, 1872, whether Arun is liable to compensate Ramesh.

7. Discuss in detail the rules governing the enforcement of contingent contracts under the Indian Contract Act, 1872.
8. "An agency may be terminated by act of parties or by operation of law." Explain this statement and discuss the circumstances under which an agency stands terminated.
9. Discuss the essential conditions that must be fulfilled for a valid contract of guarantee under the Indian Contract Act, 1872.

### **The Sale of Goods Act, 1930**

10. Classify the following transactions according to the types of goods they are:
- (i) A wholesaler of cotton has 100 bales in his godown. He agrees to sell 50 bales and these bales were selected and set aside.
  - (ii) A agrees to sell to B one packet of sugar out of the lot of one hundred packets lying in his shop.
  - (iii) T agrees to sell to S all the apples which will be produced in his garden this year.
11. Mr. Rahul, a wholesale trader in Delhi, placed an order with Mr. Kapil, a textile merchant, for 50 rolls of "premium silk cloth" at an agreed price. It was clearly mentioned that the cloth should be of premium-quality silk and suitable for manufacturing wedding garments. Mr. Kapil delivered the goods on the scheduled date. On a casual examination at the time of delivery, the rolls appeared to be fine, so Rahul accepted them.

However, later, while cutting and using the cloth for tailoring, it was discovered that the rolls contained a mixture of synthetic fibers and had hidden defects such as small holes and stains. These defects made the cloth unfit for making wedding garments, causing heavy losses to Rahul. When Rahul demanded a refund, Kapil refused, contending that Rahul had already inspected the goods and accepted delivery.

State, with reasons, whether Rahul can reject the goods and recover the price under the Sale of Goods Act, 1930.

12. Mr. Varun, a laptop distributor, delivered 20 laptops to his friend Mr. Rohit on the condition of "sale on approval or return within 10 days." Rohit neither returned the laptops within the stipulated period nor informed Varun of any rejection. Instead, he kept the laptops in his office showroom and sold 5 of them to Mr. Anuj, claiming to be the absolute owner. Anuj purchased the laptops in good faith, paid full consideration, and even issued a receipt.

After 15 days, Varun demanded the return of all the laptops, including those sold to Anuj. Rohit refused, arguing that he had acted as the owner. Anuj also defended himself, claiming that he was a bona fide purchaser for value. Varun, however, relied on the principle that "no one can transfer a better title than he himself has."

Decide, under the Sale of Goods Act, 1930, whether Anuj has acquired a valid title and whether Varun can recover the goods.

13. Discuss the rights of the buyer against the seller when the seller commits a breach of contract under the Sale of Goods Act, 1930.
14. Explain the rule relating to the passing of property in specific or ascertained goods under Section 19 of the Sale of Goods Act, 1930. How is the intention of the parties as to the passing of property ascertained?

### **The Indian Partnership Act, 1932**

15. Mr. Arun and Mr. Varun are brothers employed in a private company in Delhi. Out of their joint savings, they purchased a plot of land in Noida and constructed five commercial shops on it. These shops were later rented out to different tenants. It was mutually agreed that both would

equally share the monthly rent received. They also decided to contribute jointly towards property tax and repair expenses.

In March 2025, one tenant defaulted in paying rent of ₹50,000. Varun claimed the entire arrears from Arun, stating that both were "partners" in the property business and, hence, Arun, being one of the partners, was liable for the whole amount. Arun, however, refused and argued that they were not partners but only co-owners; therefore, he was not liable to pay Varun's share of the defaulted rent.

Decide, with reasons, whether Arun and Varun can be regarded as partners under the Indian Partnership Act, 1932.

16. M, N, and O were partners in a firm engaged in the transport business. Over time, N became mentally unsound and was incapable of managing the firm's affairs. O alleged that M was continuously guilty of misconduct and was misappropriating the firm's funds. Due to repeated disputes and loss of trust, O filed a petition in Court seeking dissolution of the firm. After the court ordered dissolution, M claimed that he still had the right to use the firm's trucks and vehicles for his personal business. Explain whether contention of M is correct.
17. Explain the rights of a transferee of a partner's interest under the Indian Partnership Act, 1932. How do these rights differ from those of an original partner?

#### **The Limited Liability Partnership Act, 2008**

18. Explain the provisions relating to the change of name of a Limited Liability Partnership (LLP) under the LLP Act, 2008.

#### **The Companies Act, 2013**

19. Sunrise Infrastructure Ltd. was incorporated with the object of developing residential housing projects as specified in its Memorandum of Association. The Board of Directors decided to invest a substantial part of the company's funds in speculative trading of shares of other companies, hoping to earn quick profits. When the shareholders questioned this act, the directors argued that since the company was duly incorporated and had wide powers of management, their decision

was valid. Examine, with reference to the doctrine of ultra vires, whether the directors' action is binding on the company.

20. Bharat Infrastructure Ltd. was incorporated in India with 55% of its paid-up share capital held by the Central Government, 20% by a State Government, and the remaining 25% by private investors. Some private shareholders argued that government control was not absolute and therefore the company should not be classified as a Government Company. Decide with reference to the Companies Act, 2013.
21. Can a non-profit organization be registered as a company under the Companies Act, 2013? If so, what procedure does it have to adopt?

### **The Negotiable Instruments Act, 1881**

22. Mr. Anil drew a bill of exchange in Kolkata on Mr. Bimal, a resident of New York, and made it payable in Delhi. On maturity, the bill was dishonoured, and Anil sued Bimal in India claiming interest at the rate of 18% as applicable in Kolkata. Bimal contended that his liability was governed by New York law, where the rate of interest was only 6%. Decide the liability of Bimal with reference to the provisions of the Negotiable Instruments Act, 1881.
23. Define the following Instruments under the Negotiable Instruments Act, 1881:
  - (i) Bearer Instruments
  - (ii) Order Instruments
  - (iii) Inland Instruments
  - (iv) Foreign Instruments



### **SUGGESTED ANSWERS/HINTS**

#### **1. Reserve Bank of India:**

- (i) It is India's Central Bank and regulatory body responsible for regulation of the Indian banking system.
- (ii) It is under the ownership of Ministry of Finance, Government of India.

- (iii) It is responsible for the control, issue and maintaining supply of the Indian rupee.
  - (iv) It also manages the country's main payment systems and works to promote its economic development.
  - (v) Bharatiya Reserve Bank Note Mudran (BRBNM) is a specialised division of RBI through which it prints and mints Indian currency notes (INR) in two of its currency printing presses located in Nashik (Western India) and Dewas (Central India).
  - (v) RBI established the National Payments Corporation of India as one of its specialised division to regulate the payment and settlement systems in India.
  - (vi) Deposit Insurance and Credit Guarantee Corporation was established by RBI as one of its specialised division for the purpose of providing insurance of deposits and guaranteeing of credit facilities to all Indian banks.
2. According to the Indian Contract Act, 1872, an invitation to offer is different from offer. Quotation catalogues, advertisements in newspaper for sale are not offer. These are invitations to public to make an offer. Bidding in an auction is also an invitation to offer. When goods are sold through auction, the auctioneer does not contract with anyone who attends the sale. It was decided in case of *Harris vs. Nickerson* that the advertisement auction was merely a declaration to inform potential purchasers that the sale was taking place. It was not an offer to contract with anyone.

In the instant case, Mr. Naman advertised for sale of some office furniture in an auction on 17<sup>th</sup> April, 2025 in Agra for sale of some office furniture. Mr. Kanha read the advertisement and travelled about 500 kilometres to attend the auction, but he found that furniture was withdrawn from the sale. Mr. Kanha sued against Mr. Naman for loss of his time and expenses.

On the basis of above provisions and facts, advertisement of auction by Mr. Naman is not an offer but merely in invitation to offer. He is not liable to Mr. Kanha. Hence, Mr. Kanha could not succeed in his suit.

3. Section 2(d) of the Indian Contract Act, 1872 defines consideration as an act or abstinence done at the desire of the promisor, which has already been done, is being done, or is promised to be done by the promisee or any other person.

Section 25(2) specifically provides that a promise made in writing and signed by the promisor to compensate a person who has voluntarily done something for the promisor is enforceable, even without fresh consideration. Thus, although the original act was voluntary, once a subsequent written promise is made, it becomes binding.

In the present case, Ramesh voluntarily returned Abhimanyu's lost documents. At that time, no enforceable contract existed because the act was not done at Abhimanyu's request. Subsequently, Abhimanyu made a written promise to pay ₹50,000 to Ramesh as a token of appreciation. Later, Abhimanyu refused to fulfil his promise.

Here, the promise made by Abhimanyu in writing to compensate Ramesh for past voluntary services is valid and enforceable. Therefore, Ramesh is entitled to receive ₹50,000 and Abhimanyu is legally bound to pay.

4. Section 23 of the Indian Contract Act, 1872 provides that the consideration or object of an agreement is unlawful if it is (a) forbidden by law, (b) defeats the provisions of any law, (c) fraudulent, (d) involves injury to person or property, (e) immoral, or (f) opposed to public policy. Any agreement with such an object is void.

Smuggling of gold is expressly prohibited by Customs Law in India and is a criminal offence. Therefore, any contract to undertake smuggling is not only unlawful but also opposed to public policy, since Courts will not enforce agreements that encourage illegal trade.

Section 24 further provides that if any part of a single consideration or object is unlawful, the entire agreement is void. Only when the lawful and unlawful parts can be separated may the lawful portion be enforced. If the two are inseparable, the entire contract fails.

In this case, the main object of the agreement between Mr. Vikas and Reddy was to smuggle gold, which is forbidden by law and opposed to public policy. This makes the primary agreement void. Even though the

agreement also included a clause that profits from smuggling would later be invested in Mr. Vikas's legal textile business, the lawful part is not separable from the unlawful part because the investment depended entirely on the profits derived from the illegal act.

Hence, the agreement between Mr. Vikas and Reddy is void under Sections 23 and 24 of the Indian Contract Act, 1872. The object of the contract (smuggling) is forbidden by law and opposed to public policy, and the lawful portion (investment in textiles) cannot be separated from the unlawful part. Therefore, Reddy cannot enforce either the smuggling profits or the investment clause. In law, no rights or obligations can arise out of an unlawful agreement.

5. According to section 62 of the Indian Contract Act 1872, if the parties to a contract agree to substitute a new contract in place of the old one, or to rescind or alter it, the original contract need not be performed.

Section 56 provides that an agreement to do an act which is impossible in itself is void. Further, if a contract was possible when it was made, but becomes impossible or unlawful after formation due to some event beyond the control of parties, it becomes void.

However, mere commercial hardship or rise in cost is not impossibility. Impossibility applies only when the performance has become absolutely impracticable or unlawful.

In the instant case, at first, Mr. Lal agreed to construct a shopping mall for ₹10 crores within 18 months. Subsequently, both Lal and Kumar, by mutual consent, substituted the original agreement with a new one, under which Lal was required to construct a luxury hotel for ₹12 crores. By this substitution, the earlier mall contract stood discharged. During the continuation of the new contract, the State Government imposed a legal prohibition on the construction of hotels in that particular zone, which directly affected the subject matter of the agreement.

Here, the first contract for the construction of a mall was discharged by novation under Section 62, since a new contract was formed with mutual consent. Therefore, the mall contract no longer remained enforceable.

As regards the substituted contract for construction of the hotel, a subsequent change in Law by the government prohibited hotel

construction in that area. This made performance of the hotel contract unlawful and impossible. Under Section 56, the contract therefore became void due to supervening impossibility.

Hence, Mr. Lal is not guilty of breach of contract because non-performance resulted from an event beyond his control. Mr. Kumar cannot claim damages as the contract stood discharged by impossibility. Both parties are therefore relieved from their respective obligations.

- 6.** According to Section 148 of the Indian Contract Act, 1872, bailment is the delivery of goods from one person to another for a specific purpose, upon a contract that the goods shall be returned once the purpose is completed.

Section 151 provides that the bailee is bound to take as much care of the goods bailed as a man of ordinary prudence would take of his own goods.

Further, Section 152 states that if the bailee has taken such reasonable care, he is not responsible for loss, destruction or deterioration of the goods.

In the instant case, Ramesh entrusted his ornaments to Arun, a jeweller, for polishing. Arun locked them securely in his shop's locker. However, a theft occurred at night, and the ornaments were stolen despite the precautions taken. Ramesh demanded compensation, but Arun refused, claiming that he had exercised ordinary care.

Hence, it is clear that Arun has taken reasonable precautions by locking the ornaments in the locker and securing the shop. The theft was beyond his control and does not amount to negligence. Therefore, Arun cannot be held liable to compensate Ramesh for the stolen ornaments.

**7. Rules relating to Enforcement**

The rules relating to enforcement of a contingent contract are laid down in sections 32, 33, 34, 35 and 36 of the Indian Contract Act, 1872.

- (a) Enforcement of contracts contingent on an event happening:**  
Section 32 says that "where a contingent contract is made to do or not to do anything if an uncertain future event happens, it cannot

be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void".

- (b) **Enforcement of contracts contingent on an event not happening:** Section 33 says that "Where a contingent contract is made to do or not do anything if an uncertain future event does not happen, it can be enforced only when the happening of that event becomes impossible and not before".
- (c) **A contract would cease to be enforceable if it is contingent upon the conduct of a living person when that living person does something to make the 'event' or 'conduct' as impossible of happening:** Section 34 says that "if a contract is contingent upon as to how a person will act at an unspecified time, the event shall be considered to have 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".
- (d) **Contingent on happening of specified event within the fixed time:** Section 35 says that Contingent contracts to do or not to do anything, if a specified uncertain event happens within a fixed time, becomes void if, at the expiration of time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.
- (e) **Contingent on specified event not happening within fixed time:** Section 35 also says that - "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".
- (f) **Contingent on an impossible event (Section 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.

8. **Termination of agency [Section 201 of the Indian Contract Act, 1872]:** Termination of agency means putting an end to the legal relationship between principal and agent. Section 201 provides for the following modes of termination:

- (a) **Revocation:** An agency may be terminated by the principal revoking the authority of the agent. Principal may revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal [Section 203]. However, the principal cannot revoke the authority given to his agent after the authority has been partly exercised so far as regards such acts and obligations as arise for acts already done in the agency. [Section 204]

**Compensation for revocation by principal [Section 205]:** If there is premature revocation of agency without sufficient cause, the principal must compensate the agent, for such revocation.

**Notice of revocation [Section 206]:** When the principal, having justification to do so, revokes the authority, he must give reasonable notice of such revocation to the agent, otherwise, he can be liable to pay compensation for any damage caused to the agent (Section 206).

**Revocation and renunciation may be expressed or implied [Section 207]:** Revocation of agency may be expressed or implied in the conduct of the principal.

- (b) **Renunciation by agent [Section 206]:** An agent may renounce the business of agency in the same manner in which the principal has the right of revocation. In the first place, if the agency is for a fixed period, the agent would have to compensate the principal for any premature renunciation without sufficient cause. [Section 205] Secondly, a reasonable notice of renunciation is necessary. Length of notice (time period of notice) is to be determined by the same principles which apply to revocation by the principal. If the agent renounces without proper notice, he shall have to make good any damage thereby resulting to the principal. [Section 206]
- (c) **Completion of business:** An agency is automatically and by operation of law terminated when its business is completed. Thus, for

example, the authority of an agent appointed to sell goods ceases to be exercisable when the sale is completed.

- (d) **Death or insanity:** An agency is determined automatically on the death or insanity of the principal or the agent. Winding up of a company or dissolution of partnership has the same effect. Act done by agent before death would remain binding.
- (e) **Principal's insolvency:** An agency ends on the principal being adjudicated insolvent.
- (f) **On expiry of time:** Where an agent has been appointed for a fixed term, the expiration of the term puts an end to the agency, whether the purpose of agency has been accomplished or not. An agency comes to an automatic end on expiry of its term.

#### 9. Essential features of a Guarantee

The following are the requisites of a valid guarantee:-

1. **Purpose:** The purpose of a guarantee being to secure the payment of a debt, the existence of recoverable debt is necessary. If there is no principal debt, there can be no valid guarantee.
2. **Consideration:** Like every other contract, a contract of guarantee should also be supported by some consideration. A guarantee without consideration is void, but there is no need for a direct consideration between the surety and the creditor.

As per Section 127 consideration received by the principal debtor is sufficient consideration to the surety for giving the guarantee, but past consideration is no consideration for the contract of guarantee. Even if the principal debtor is incompetent to contract, the guarantee is valid. But, if surety is incompetent to contract, the guarantee is void.

3. **Existence of a liability:** There must be an existing liability or a promise whose performance is guaranteed. Such liability or promise must be enforceable by law. The liability must be legally enforceable and not time barred.
4. **No misrepresentation or concealment (section 142 and 143):** Any guarantee which has been obtained by the means of

misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid (section 142)

Any guarantee which the creditor has obtained by means of keeping silence as to material circumstances, is invalid (section 143).

5. **Writing not necessary:** Section 126 expressly declares that a guarantee may be either oral or written.
  6. **Joining of the other co-sureties (Section 144):** Where a person gives a guarantee upon a contract that the creditor shall not act upon it until another person has joined in it as co-surety, the guarantee is not valid if that other person does not join. That implies, the guarantee by a surety is not valid if a condition is imposed by a surety that some other person must also join as a co-surety, but such other person does not join as a co-surety.
10. (i) A wholesaler of cotton has 100 bales in his godown. So, the goods are existing goods. He agrees to sell 50 bales and these bales were selected and set aside. On selection, the goods becomes ascertained. In this case, the contract is for the sale of ascertained goods, as the cotton bales to be sold are identified and agreed after the formation of the contract.
- (ii) If A agrees to sell to B one packet of sugar out of the lot of one hundred packets lying in his shop, it is a sale of existing but unascertained goods because it is not known which packet is to be delivered.
- (iii) T agrees to sell to S all the apples which will be produced in his garden this year. It is contract of sale of future goods, amounting to 'an agreement to sell.'
11. As per Section 15 of the Sale of Goods Act, 1930, where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description. Further, as per Section 16(2), when goods are bought by description from a seller who deals in such goods, there is an implied condition that they shall be of merchantable quality. However, if the buyer has examined the goods, the seller is not liable for defects which such examination ought to have

revealed. But where the defects are latent and cannot be discovered on ordinary inspection, the seller remains liable.

In the present case, Rahul, a trader, purchased 50 rolls of "premium silk cloth" from Kapil for the specific purpose of manufacturing wedding garments. On a casual inspection at the time of delivery, the cloth appeared to be fine. However, when used for tailoring, it was discovered that the fabric contained synthetic fibers and had hidden holes and stains. These defects were not visible during a simple inspection at the time of delivery but made the cloth unfit for its intended purpose. Kapil refused to refund the amount, stating that Rahul had already accepted the goods.

On the basis of the above provisions and facts, it is clear that the cloth did not correspond with its description of "premium silk" and was also not of merchantable quality. The defects were latent and could not have been noticed on ordinary inspection. Hence, Rahul is entitled to reject the goods and recover the price. Kapil cannot avoid liability merely on the ground that casual inspection was done by Rahul.

- 12.** Section 24 of the Sale of Goods Act, 1930 states that when goods are delivered on approval or "sale or return" basis, the property passes to the buyer if he accepts them, does any act adopting the transaction such as reselling, or retains the goods beyond the fixed or reasonable time.

Section 27 provides the general rule that no one can transfer a better title than he himself has. But the Act recognizes exceptions to protect bona fide purchasers.

Under Section 30(1), if a seller in possession of goods resells them to a buyer in good faith, such buyer gets a valid title. Similarly, under Section 30(2), if a buyer with the seller's consent obtains possession and resells before ownership has passed the sub-buyer in good faith also acquires good title.

Thus, once goods on approval are retained beyond time or resold, ownership passes, and a purchaser in good faith is protected.

In the present case, Varun delivered 20 laptops to Rohit on approval for 10 days. Rohit neither rejected nor returned the goods but displayed them in his showroom and sold 5 laptops to Anuj. This constituted an

act of adopting the transaction under Section 24; therefore, ownership of all the laptops passed to Rohit. Since Anuj purchased them in good faith, for value, and without notice of Varun's rights, he falls within the exceptions under Sections 27 and 30.

Therefore, it is clear that by retaining the laptops beyond approval period and selling part of them, Rohit became the owner of the goods. His sale to Anuj was valid, and Anuj, being a bona fide purchaser, acquired a good title. Varun cannot recover the laptops from Anuj but may claim the price of the remaining from Rohit. Hence, Varun's contention is not legally sustainable.

13. If the seller commits a breach of contract, the buyer gets the following rights against the seller:

1. **Damages for non-delivery [Section 57 of the Sale of Goods Act, 1930]:** Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.
2. **Suit for specific performance (Section 58):** Where the seller commits a breach of the contract of sale, the buyer can appeal to the court for specific performance. The court can order for specific performance only when the goods are ascertained or specific.

This remedy is allowed by the court subject to these conditions:

- (a) The contract must be for the sale of specific and ascertained goods.
  - (b) The power of the court to order specific performance is subject to provisions of Specific Relief Act of 1963.
  - (c) It empowers the court to order specific performance where damages would not be an adequate remedy.
  - (d) It will be granted as remedy if goods are of special nature or are unique.
3. **Suit for breach of warranty (Section 59):** Where there is breach of warranty on the part of the seller, or where the buyer elects to treat breach of condition as breach of warranty, the buyer is not entitled to

reject the goods only on the basis of such breach of warranty. But he may –

- (i) set up against the seller the breach of warranty in diminution or extinction of the price; or
- (ii) sue the seller for damages for breach of warranty.

**4. Repudiation of contract before due date (Section 60):** Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

**5. Suit for interest:**

- (1) Nothing in this Act shall affect the right of the seller or the buyer to recover interest or special damages, in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed.
- (2) In the absence of a contract to the contrary, the court may award interest at such rate as it thinks fit on the amount of the price to the buyer in a suit filed by him for the refund of the price (in a case of a breach of the contract on the part of the seller) from the date on which the payment was made.

**14. Property (Specific or ascertained goods) passes when intended to pass (Section 19 of the Sale of Goods Act, 1930):**

Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. [sub-section (1)]

For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. [sub-section (2)]

Unless a different intention appears, the rules contained in Sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer. [sub-section (3)]

**Stages of goods while passing of property**

1. **Specific goods in a deliverable state (Section 20):** Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed. Here, the condition is goods must be ready for delivery.
  2. **Specific goods to be put into a deliverable state (Section 21):** Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.
  3. **Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price (Section 22):** Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.
15. According to Section 4, Section 5 and Section 6 of the Indian Partnership Act, 1932 –
- Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.
  - The following essentials must exist to constitute a partnership:
    - There must be an agreement between the parties;
    - The agreement must be to carry on a business;
    - The agreement must be to share profits of such business; and
    - The business must be carried on by all or any of them acting for all (mutual agency).

- Partnership arises from contract and not from status.
- The real relation between the parties, as shown by all relevant facts, determines whether a partnership exists.
- In contrast, co-ownership arises by inheritance or purchase and does not necessarily involve business or mutual agency.

In the present case, Arun and Varun, while working in jobs, purchased a piece of land with their joint savings. They built shops on it and rented them out, dividing the rental income equally. When a tenant defaulted on paying ₹50,000, Varun demanded the entire amount from Arun, treating them as “partners.” Arun denied this, claiming they were only co-owners of the property and not partners in any business.

On applying the above provisions, it is clear that Arun and Varun are only co-owners and not partners. They never entered into an agreement to carry on a business with a profit motive; they simply invested in property and shared rental income. There is no element of business activity or mutual agency between them.

Therefore, under the Indian Partnership Act, 1932, they cannot be regarded as partners. Arun is liable only for his individual share of the defaulted rent and not for the whole amount.

- 16.** According to Section 44 of the Indian Partnership Act, 1932, the Court may dissolve a firm on several grounds, including when a partner becomes of unsound mind, when a partner is guilty of misconduct affecting business, when partners commit persistent breaches of the partnership agreement, or when it becomes just and equitable to dissolve the firm.

Further, Section 46 provides that on dissolution of a firm, every partner or his representative is entitled to have the firm’s property applied in payment of debts and liabilities of the firm, and the surplus distributed among partners according to their rights. No partner can claim exclusive rights over the property of the firm after dissolution.

Here, N became mentally unsound and incapable of attending to partnership matters. O alleged that M was guilty of misconduct and misappropriation of funds. Due to loss of confidence and ongoing

disputes, O approached the court for dissolution of the firm. The court ordered the dissolution. Subsequently, M claimed personal rights over the firm's assets, particularly its vehicles, for his individual use.

In the instant case, the dissolution ordered by the court was valid under Section 44, as one partner was of unsound mind and another was guilty of misconduct. After dissolution, under Section 46, the firm's assets must be used for clearing liabilities and then distributed among partners according to their share. M cannot claim exclusive rights over trucks and vehicles for personal business. His claim is unjustified, and the property must be applied for settlement of accounts of the dissolved firm.

**17. Rights of Transferee of a Partner's interest (Section 29 of the Indian Partnership Act, 1932)**

A share in a partnership is transferable like any other property, but as the partnership relationship is based on mutual confidence, the assignee of a partner's interest by sale, mortgage or otherwise cannot enjoy the same rights and privileges as the original partner.

The rights of such a transferee are as follows:

- (I) During the continuance of partnership, such transferee is not entitled:
  - (a) to interfere with the conduct of the business,
  - (b) to require accounts, or
  - (c) to inspect books of the firm.

He is only entitled to receive the share of the profits of the transferring partner and he is bound to accept the profits as agreed to by the partners, i.e., he cannot challenge the accounts.

- (II) On the dissolution of the firm or on the retirement of the transferring partner, the transferee will be entitled, against the remaining partners:
  - (a) to receive the share of the assets of the firm to which the transferring partner was entitled, and
  - (b) for the purpose of ascertaining the share,he is entitled to an account as from the date of the dissolution.

By virtue of Section 31, which we will discuss hereinafter, no person can be introduced as a partner in a firm without the consent of all the partners. A partner cannot by transferring his own interest, make anybody else a partner in his place, unless the other partners agree to accept that person as a partner. At the same time, a partner is not debarred from transferring his interest. A partner's interest in the partnership can be regarded as an existing interest and tangible property which can be assigned.

**18. Change of name of LLP (Section 17 of the Limited Liability Partnership Act, 2008):**

- (1) Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a LLP, on its first registration or on its registration by a new body corporate, its registered name, is registered by a name which is identical with or too nearly resembles to —

- (a) that of any other LLP or a company; or
- (b) a registered trade mark of a proprietor under the Trade Marks Act, 1999, as is likely to be mistaken for it,

then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company,

the Central Government may direct that such LLP to change its name or new name within a period of 3 months from the date of issue of such direction.

It is further provided that an application of the proprietor of the registered trade marks shall be maintainable within a period of 3 years from the date of incorporation or registration or change of name of the LLP under this Act.

- (2) Where a LLP changes its name or obtains a new name under sub-section (1), it shall within a period of 15 days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within 30 days of

such change in the certificate of incorporation, such LLP shall change its name in the LLP agreement.

- (3) If the LLP is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the LLP in such manner as may be prescribed and the Registrar shall enter the new name in the register of LLP in place of the old name and issue a fresh certificate of incorporation with new name, which the LLP shall use thereafter.

Nothing contained in this sub-section shall prevent a LLP from subsequently changing its name in accordance with the provisions of section 16.

- 19.** The Memorandum of Association defines the scope of activities of a company. Any act done beyond the objects stated in the memorandum is ultra vires and void. The doctrine of ultra vires, established in *Ashbury Railway Carriage and Iron Co. Ltd. vs. Riche*, holds that an act beyond the powers of the company cannot be ratified even by unanimous consent of all shareholders. Such acts are wholly void and cannot bind the company.

In the instant case, the object clause of Sunrise Infrastructure Ltd. restricted the company's business to real estate development. However, the directors diverted funds into speculative share trading, which was not included in the memorandum. This activity was therefore beyond the powers conferred on the company.

Therefore, the directors' action is ultra vires the company and, therefore, void. The company is not bound by such acts, and the funds utilized for speculative purposes can be recovered. The doctrine of ultra vires protects shareholders and creditors by ensuring that the company's capital is used only for authorized purposes.

- 20.** Section 2(45) of the Companies Act, 2013 defines a government company as one in which not less than 51% of the paid-up share capital is held by the Central Government, State Government(s), or jointly by the Central and State Governments.

In the instant case, the Central and State Governments together held 75% of the paid-up share capital of Bharat Infrastructure Ltd. The remaining 25% was private investors.

Taking into account the provisions of the Companies Act, 2013, Bharat Infrastructure Ltd. is a Government Company, since the combined government holding exceeds 51%. The argument of the private shareholders is untenable.

- 21.** Yes, a non-profit organization be registered as a company under the Companies Act, 2013 by following the provisions of section 8 of the Companies Act, 2013. Section 8 of the Companies Act, 2013 deals with the formation of companies which are formed to

- promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc.
- Such company intends to apply its profit in
- promoting its objects and
- prohibiting the payment of any dividend to its members.

The Central Government has the power to issue license for registering a section 8 company.

- (i) Section 8 allows the Central Government to register such person or association of persons as a company with limited liability without the addition of words 'Limited' or 'Private limited' to its name, by issuing licence on such conditions as it deems fit.
- (ii) The registrar shall on application register such person or association of persons as a company under this section.
- (iii) On registration the company shall enjoy same privileges and obligations as of a limited company.

- 22.** Section 11 of the Negotiable Instruments Act, 1881 defines an inland instrument as a promissory note, bill of exchange, or cheque drawn or made in India and either payable in India or drawn upon a person resident in India. Section 12 provides that any instrument which is not an inland instrument is deemed to be a foreign instrument.

Further, Section 134 of the Act states that in the absence of a contrary contract, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated by the law of the place where the instrument is made, whereas the liability of the acceptor or indorser is determined by the law of the place where the instrument is payable.

Here, the bill was drawn by Anil in Kolkata on Bimal, a resident of New York, and was made payable in Delhi. On dishonour, Anil claimed interest at 18% as per the law prevailing in India, while Bimal claimed that his liability should be limited to 6% under New York law.

Since the bill was drawn in India but made payable in Delhi, the liability of the acceptor (Bimal) is governed by Indian law, i.e., the law of the place of payment. Therefore, Bimal is liable to pay interest at 18% as claimed by Anil.

- 23. Bearer Instrument:** It is an instrument where the name of the payee is blank or where the name of payee is specified with the words "or bearer" or where the last indorsement is blank. Such instrument can be negotiated by mere delivery.

**Order Instrument:** It is an instrument which is payable to a person or Payable to a person or his order or Payable to order of a person or where the last indorsement is in full, such instrument can be negotiated by indorsement and delivery.

**"Inland instrument":** A promissory note, bill of exchange or cheque drawn or made in India and made payable in, or drawn upon any person resident in India shall be deemed to be an inland instrument.

**"Foreign instrument":** A foreign instrument is one which is not an inland instrument.