

1 (I) Contingent Contracts

Subject : Commerce

Lesson : Contingent Contracts

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1 (I) Contingent Contracts

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1 (I) Contingent Contracts

The scope of the Unit is given below:

- 9.1 Meaning of Contingent Contracts
- 9.2 Rules Regarding Enforcement of Contingent Contracts
- 9.3 Differences between Wagers & Contingent Contracts



1 (I) Contingent Contracts

9.1 Meaning of Contingent Contracts

Section 31 of the Indian Contract Act defines contingent contract as “a contract to do or not to do an act depending on an event that is collateral to the contract, which may or may not happen. If a contract is made between two people to exchange some goods on the expiry of a period or on the death of a certain person it is not considered to be a contingent contract because it is based on certainty of event”.

Contingent contracts are based on events of an uncertain nature. If two people make a contract that a payment would be made in case a fire breaks out in the premises, it becomes a contingent contract because it is based on the uncertainty of an event. There may or may not be a fire. Contingent contracts are also called conditional contracts and they are valid contracts.¹⁶

However, when a contract is made to pay wages to another person for the work carried out by him, it is not a contingent contract even though a person can demand his or her wages only after the completion of the work. There is nothing uncertain in this contract and so it cannot be termed as a contingent contract.

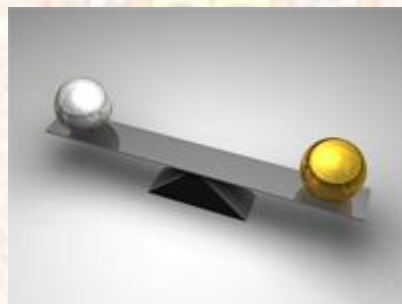


Figure 9.1 Dependency in Contract

Illustration

If a manufacturer of silver articles sends his goods for approval to a buying house, the contract is dependent on the buyer to accept or reject the goods. In this sense it is a contingent contract because it is dependent on the happening or not happening of a certain event.

9.1.1 Essentials of Contingent Contracts

Contingent contracts consist of important essential elements. These are the following:

1. Uncertain Event: The parties making the contract make an agreement that the performance of the contract will be dependent on a future uncertain event¹⁷.

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Figure 9.2 Essentials of Contingent Contract

Illustration

Latika participates in and wins a beauty contest. Another contest may be held in Mumbai to select Miss India. If she participates she may win the contest. The uncertainty is that the contest may or may not be held and also that she may or may not win because there will be other contestants as well. Therefore the outcome is also uncertain.

Collateral to the Contract: The Contract Act does not define a collateral event. It is in general use accepted to be an event whose performance is not promised directly. It also does not form the consideration of the promise in the main contract. It is considered to be important because it signifies the time when the rights that are created by the contract become enforceable.

Contingency is collateral or incidental to the contract. The event is independent to the contract. This means that there should be an existing contract but its performance can only be demanded on the happening or not happening of an event. The event on which the contingent contract is dependent is in addition to the contract made by the two parties.

Illustration

Raju promises to pay Ravi Rs 1,00,000 if the plans for building the first floor of a house get a no objection certification from the municipal inspector for beginning the work. This is a contingent contract. The certification by the municipal inspector is a collateral event. Ravi cannot enforce the contract unless the work is first certified.

2. Validity of the Contract: Contingent contracts are valid. Insurance contracts are an example of contingent contract in which the liability arises when an uncertain event happens.

Illustration

Nirmeet takes an International medical policy as it is mandatory for her while traveling to the United States of America. If she falls sick, only in that event the liability of the insurance company will arise and it will have to pay the insured amount.

3. Conditional Contracts: Contracts can be absolute or contingent in nature. An absolute contract is one in which the promisor is bound to perform. In a conditional contract, performance depends on the happening or not happening of an uncertain event, collateral to the contract. Contingent contracts are conditional in nature. They can be distinguished from absolute contracts, which give reciprocal promises of a dependent nature.

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Illustration

Naju made an agreement to pay Rs 55,000 to Amrita after delivery of goods by her on the 16th of October. In case she fails to pay then Aman would make the payment to Amrita on Naju's behalf. The term of the contract in which Aman will have to pay Amrita if Naju does not pay is a conditional contract.

4. Event should not be at the discretion of the promisor: The performance of the contract should not be at the will or pleasure of the promisor. Such contracts do not constitute a promise at all. However if a third person determines the promise it is acceptable and it constitutes a promise.

Illustration

Irfan promises to pay Prem Rs 25,000. This is not a contract because the promisor determines the amount and promise himself. When Irfan promises to pay Rs 42,000 to Prem and the amount has been determined by Prabhat, it is a contingent contract because it is not at the discretion of the promisor but that of a third person. It is a valid promise.

Check your Progress

Essentials of Contingent Contracts

Event not at Discretion of Promisor

Conditional Contracts

Validity of the Contract

Uncertain Event

Over Your Mouse on Each Layer to View Associated Description.

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9.2 Rules Regarding Enforcement of Contingent Contracts

The following are the rules regarding enforcement of contingent contracts. They are provided in Sections 32 to 36 of the Indian Contract Act.

1. The happening of a future uncertain event: Section 32 of the Act states that a contingent contract to do or not to do anything on the happening of an uncertain future event cannot be enforced until the event actually happens. If the event becomes impossible the contract will become void.



Figure 9.3 Rules Regarding Enforcement

Illustration

Arti makes a contract with Indu to buy Arti's house if she survives her grandmother. The law cannot enforce such a contract unless and until the grandmother dies in the life time of Arti.

Illustration

Ganga made a contract with Jamuna to pay Rs. 2,00,000 when Ganga marries Thangam. He dies before marrying Jamuna. The contract becomes void.

Illustration

Anand makes a contract to sell his car to Munish for Rs. 4,00,000, if Dhaniram (to whom the offer to sell the car was made prior to making the contract with Munish) refuses to buy it. Therefore contract made between Anand and Munish cannot be enforced by law unless Dhaniram refuses to buy the car.

2. The non-happening of an uncertain event: Section 33 of the Act states that contingent contracts to do or not to do can become enforceable only when the event becomes impossible. If the event is possible the contract cannot be enforced.

Illustration

Amu promises to write a research paper for Ankita, if Jitu does not write it. Jitu has heavy work commitments and he refuses. Amu becomes liable to write the research paper because Jitu has refused and the event has become impossible.

Illustration

Shiva guarantees a loan taken by Amar from a bank to buy a house. Amar suffers losses and becomes insolvent. Shiva has to pay the bank as the event of Amar paying to the bank has become impossible.

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3. When an event is deemed to be impossible: According to Section 34 when an uncertain event is dependent on the future conduct of a third party, the event will be impossible if the person does not act, although it is possible for him to do so within a particular time.

In other words when the contract is contingent due to the conduct of the third person and the performance of the contract depends on the decision or action of the third person.

Illustration

Rumi promised with her sister Runa to give her the first floor of a house to build her apartment if approved by the municipal authorities. Since the authorities did not approve of the plan the contract between the two sisters became void.

Illustration

Chunni Lal promised to sell 50 computers to Murari Lal if he was able to get the supply of Maac computers within a month from the company. The company did not agree as they had already booked many orders and were not able to supply the computer to Chunni Lal. The contract became void.

Check your Progress

Events and Related Examples

Impossible Events

Non-happening of Event in Time

Happening of Event in Time

Event Deemed to be Impossible

Non-happening of Uncertain Event

Happening of Future Uncertain Event

Impossible Events

Example: Amit promises to pay Rs. 8,00,000 to Sumit if he will marry Jhumki but Jhumki was already married to Amrit. Therefore, the agreement is void because unknown to both of them the agreement was based on an impossible event.

Over Your Mouse on each Layer to view Associated Description.

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4. The happening of an event within a specified fixed time: Section 35 states that when a contingent contract to do or not to do any thing depends a specified fixed time and if the event within or before expiry of the time becomes impossible, it becomes void.

In other words the person has to perform within a fixed time. If the event does not happen or becomes impossible before the specified time the contract becomes void.

Illustration

Mallu promises to pay Kalu Ram an amount of Rs. 2,50,000, if he decides to bring back an aeroplane to India from Milan within six months. The contract will be enforced if the aeroplane is actually brought to India within the specified six months and it becomes void if the rules and regulations prohibit the movement of the plane in the respective countries within six months.

5. Non-happening of an event within a specified fixed time: The same section as above (Section 35) also states that if an event does not happen and the promise has to be performed during that fixed time the contract can be enforced only if the event does not happen within that fixed specified period.

Illustration

Tunu promises to pay Munna Rs. 5,00,000 if his machinery does not get imported to India within three months. If the machinery does not reach India or it is difficult to bring it to India within three months Tunu has to pay Munna the amount.

6. Impossible events: A contract which is dependent on an event that is impossible is void whether the impossible situation was known or un-known to the parties to the contract when the agreement was made (Section 36).

Note: Such contracts can never be enforced as impossible events cannot happen.

Illustration

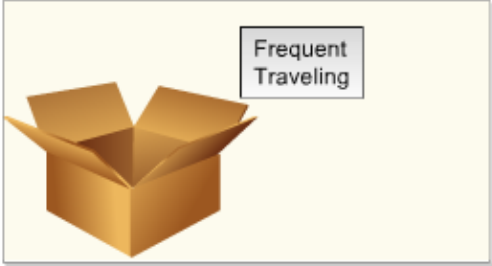
Amit promises to pay Rs. 8,00,000 to Sumit if he will marry Jhumki but Jhumki was already married to Amrit. Therefore, the agreement is void because unknown to both of them the agreement was based on an impossible event.

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Check Your Progress

Contingent Contracts / Wagering Contracts

Identify the items relevant to contingent contracts / wagering contracts



Start

Click Start to categorize flying text in appropriate bucket categories.



1 (I) Contingent Contracts

Identify the items

00 : 00 : 00

Time's up.

Type the appropriate letters in the asterisk cells and click Submit to verify your answer.

'Difference' & not 'Different'	
Contingent Contracts	Wagering Contracts
<ul style="list-style-type: none">● A contingent contract may or may not contain reciprocal promises.● Some contingent contracts are valid contracts, e.g insurance contracts.● In a contingent contract the parties have an interest in the occurrence or nonoccurrence of an event contract.● In a contingent contract the future uncertain event is just an additional or collateral part of the contract and hence its importance is secondary to that of the main event.	<ul style="list-style-type: none">● A wagering agreement consists of reciprocal promises, the performance of both the parties depending on the happening of an uncertain event.● Wagering agreements are contingent contracts as they depend on the happening or not happening of a certain event. Wagering agreements are void.● The wagering agreement the parties to the contract are only interested in the winning or losing of the betting amount.● In a wagering agreement the future event is the main central aspect that determines the contract.

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9.3 Distinction between Contingent Contracts and Wagering Agreements

Contingent contracts are quite similar to wagering agreements but there are some differences between them. These differences are given in the following discussion:

Basis of Distinction	Contingent Contracts	Wagering Contracts
Reciprocal promise	A contingent contract may or may not contain reciprocal promises.	A wagering agreement consists of reciprocal promises, the performance of both the parties depending on the happening of an uncertain event.
Nature of contract	Some contingent contracts are valid contracts, e.g insurance contracts.	Wagering agreements are contingent contracts as they depend on the happening or not happening of a certain event. Wagering agreements are void.
Interest of parties to the contract	In a contingent contract the parties have an interest in the occurrence or non-occurrence of an event contract	The wagering agreement the parties to the contract are only interested in the winning or losing of the betting amount.
Importance of future event	In a contingent contract the future uncertain event is just an additional or collateral part of the contract and hence its importance is secondary to that of the main event.	In a wagering agreement the future event is the main central aspect that determines the contract.




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Check Your Progress

Choose the correct answer

Welcome to the Snakes and Ladders game. Very simply, all you need to do in this game is answer questions correctly to get a chance at rolling the dice.

Click Start to begin and Good Luck!



Start

State whether the following are true or false

1. A contract which is not contingent is called a conditional contract.

True

False

Feedback:

Select your answers to the questions from the choices provided. Pay special attention to the feedback you receive on the right. Good luck!

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Practical Problem

Lekhi promises to pay Lakhinder Rs. 4,00,000, if the Volvo car of the 2005 model returns to India within a year from Germany. The car has an accident on the express way and is completely

Advise Lakhinder.

- Lakhinder has to treat the contract as void
- Lakhinder has to treat the contract as valid

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Brajendra entered into a contract to supply bricks to construct a hotel. The terms of the contract were that the bricks had to be approved by the government authority before accepting them for

Can Brajendra recover his money

- Yes
- No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Practical Problem

Munna promises Munni that he would pay her Rs. 1,00,000 if she could join two parallel lines.

Is it a valid Agreement?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Tunnu promises to pay Tumpa Rs. 5,00,000 for purchasing his car if it is repaired in three days time by Runa. The mechanic Runa, dies and the repairs did not take place.

What should Tunnu and Tumpa do?
Is this a valid contract?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Practical Problem

Lallu is a surety for Anita that she would pay for the goods to Lalita. However, there was a fire and Anita lost all her money and could not pay Lalita.

What is the liability of Lallu?
Does Lallu have to pay for the goods?

Yes
 No

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Madhu promised to write a book of poems jointly with Sheena if Manu does not do it. Manu had a fight with Sheena and refused to work with her. Sheena asked Madhu to keep her promise, but

Is Madhu liable?

Yes
 No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Practical Problem

Anand has a plot of land at Greater Noida but there is a dispute about its ownership. He makes a contract with Poonam to sell the land if the court decides the case in his favour.

What type of a contract is this?

Contingent Contract

Valid Contract

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Neena promises Beena that she would give her a job if she wins the badminton national championship. Beena has an accident and is disabled. She cannot play any game,

What type of contract is this?

Contingent Contract

Valid Contract

Read the question carefully, then answer the questions by clicking the appropriate option.

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Summary

Contingent contract

- It is a contract to do or not to do something if some event collateral to the contract does or does not happen.

Elements of a contingent contract

- The contract is dependent on a future uncertain event
- The unknown event should be collateral to the contract.
- The contract must fulfill all the essential requirements of a valid contract.
- Contingent contracts are conditional in nature.
- The contract should not be at the discretion of the promisor.

Rules regarding contingent contracts.

- The rules regarding contingent contracts are covered in sections 32 to 36 of the Contract Act;
- Section 32: A contract cannot be enforced unless the event has happened. If the event is impossible the contract is void
- Section 33: A Contract to do or not to do can be enforced when the happening of the event is impossible
- Section 34: The event is linked with human conduct to do an act within a fixed specified time
- Section 35: The contract is dependent on the happening of a specific event within a particular fixed time.
- Section 36: Contingent contracts are void if the agreement is to do impossible acts.

Distinction between contingent contracts and wagering agreements.

- A wagering agreement is a mutual promise whereas a contingent contract may or may not be based on reciprocal promise.
- In a wagering contract the parties are only interested in winning or losing. In Contingent contracts the parties are genuinely interested in the contract.
- In a wagering contract the future is the main determining factor, but in contingent contract the future event is collateral to the main contract.
- All contingent contracts are not wagering contract but all wagering contracts are necessarily contingent in nature.
- Contingent contracts are valid but wagering agreements are void.

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Glossary

The screenshot shows a web-based glossary interface. At the top, the word "Abatement" is entered into a search box, and "Search For" is visible to its right. Below the search box is a horizontal menu of letters from A to Z. The letter "A" is highlighted, and a list of terms starting with "A" is displayed: "A Priori", "Abatement", "Above the Line", "Absolute Title", "Balance Sheet", "Bed and Breakfast", "Book Value", "Broker", and "Cartel". The "Abatement" entry is highlighted in green. Below the list is a text box containing the definition: "A proportionate reduction in payments payable or receivable." At the bottom of the interface, a bold instruction reads: "Click each term to know its definition."

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