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RECOGNITION FOR BREACH OF AGREEMENT

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ABSTRACT

This paper discusses a violation of the agreement, which is defined as when a single party experiences harm due to the opposing party's inability to uphold their end of the bargain. This study first emphasises the relationship between breach and remedy. This term paper's goal is to investigate the concept of contract breach remedies. This study also examined the many kinds of lawsuits that can be brought by a plaintiff. It is equally crucial for the person who is not guilty to demonstrate that the breach caused it to incur a loss and to provide evidence of that loss, or to demonstrate that it ought to be granted a remedy. The choice of how much to charge in a damage's lawsuit belongs to the tribunal. Furthermore, this essay will address some instances that are pertinent to contract violations.

KEYWORDS: Bargain, Tribunal, Remedy, Breach, Lawsuits, Contract

INTRODUCTION

An agreement or promise that is enforceable by the courts between two or more parties is called a contract. Certain Contractual commitments and promises are occasionally broken by one or more parties. Consequently, this situation is referred to as a violation of the agreement, which indicates a failure to honour the promises or assurances made in a contract. A legally recognised cause of action known as a legally enforceable contract is broken when a single or more parties break their end of the arrangement.

There are two ways that a contract can be broken:

- **Anticipatory Breach of Contract:** Before the performance is due, a party states that he intends to not perform under the conditions of the agreement.
- **Actual Breach of Contract:** A party promises to not fulfil his end of the bargain before the deadline.

A contract is the foundation of a related a list of each party's obligations and rights; without remedies to uphold those rights, it would be worthless. The "guilt party" is the one who is violating the contract's conditions, as well as the other party is referred to as the "Aggrieved Party" or "Injured Party". Ubi jus, ibi remedium is a Latin maxim meaning "where there is a

right, there is a remedy." Therefore, the harmed if a contract was broken, one or more remedies would be available to the party who felt wronged against the offending party.

- i. Rescission lawsuit
- ii. Damages lawsuit
- iii. Specific performance suit
- iv. Injunction suit
- v. Quantum Meruit suit

ACTION FOR RESCISSION

Rescission is the legal term for the dissolution or unmaking of a participant in a contract. Although the contract is discharged by the breach, the injured party may occasionally need to petition the court for the agreement to be formally revoked or cancelled. He will then be released from his own contractual duties as a result. These are the main justifications for rescission:

- 1) False or innocent representation;
- 2) Mutual error;
- 3) Incapacity to enter into a contract;
- 4) Impossibility of carrying out a non-party transaction;
- 5) Coercion; or
- 6) Improper influence.

When another party violates a contract, a party may retract it, but the violation must be so severe as to negate the intent behind the agreement. A contract may also be revoked by agreement. A contract can be cancelled if all parties to it agree to do so. Example: A guarantees B that fifty cement sacks will be delivered on a specific day. B promises to pay the sum as soon as the products are received. Cement was not delivered by A on the scheduled day. B is released from his obligation to cover the cost.

➤ **Long v. Lloyd [1958]**

Facts: The defendant sold a truck to the claimant. A newspaper published an advertisement for the truck, describing it as being in extraordinary condition. The plaintiff called that I was informed that it was in excellent shape and asked to schedule a viewing. When he went to see it the next day, he was informed that it could go 40 mph and 11 miles per gallon. When the claimant gave it a test drive, he discovered that the accelerator was not functioning and that he had to pull a wire for the speedometer. Despite this, the claimant went ahead and bought the truck. During the initial trip, the plaintiff observed several issues with the truck and got in touch

with the defendant who pledged to cover half of the cost of the repairs. This was acknowledged by the claimant. However, the claimant wanted to revoke the agreement and filed a lawsuit against the defendant for innocent misrepresentation after the lorry entirely broke down on a subsequent trip.

Problem: Would the agreement expire?

Held: The defendant forfeited his right to retract since he had confirmed the contract by agreeing to pay for half of the repairs after learning of the flaws.

➤ **Caldwell v. Car & Universal Credit**¹

Facts: On January 12th, Mr Caldwell sold his Jaguar to Norris, an unscrupulous person who demanded a £10 cash deposit, another car as collateral and a £965 cheque. The day after that, when Mr Caldwell proceeded to settle the cheque, he found that it was fake and that the automobile that had been provided as a deposit had been stolen. In order to void the sale agreement, Mr. Caldwell informed the authorities of the occurrence and did all in his power to assist them in their search for Norris. In an attempt to find the car, he also got in touch with the Automobile Association. Due to deceptive and fraudulent inducement of the transaction, Norris had obtained a voidable title to the vehicle. On January 15, the car was sold to a third party by Norris.

Issue: The court had to decide if Mr. Caldwell's conduct were enough to break the contract.

Held: The contract had been successfully cancelled by Mr. Caldwell. He had made every effort to demonstrate that he was willing to be released from the contract. He must not allow the reality that his search for Norris ended in failure deter him.

ACTION FOR DAMAGES

The most typical cure available to the person who was hurt is compensation in the form of damages. This gives the harmed person the entitlement to damages for any losses sustained as a result of the violation of contract, from the person who violates it. "I have always understood that damages for breach of contract were in the nature of compensation, not punishment," declared Lord Atkinson in *Addis v. Gramophone Co Ltd 1909*. The aggrieved person may be awarded any of the following types of damages.

1. Average losses

¹ 1964, 2 WLR 600

When a contract is breached, the person who is harmed by it has the entitlement to payment for any losses or damages caused by the breach from the party who violated it to him thus, which naturally resulted from such a violation in the normal course of events, or which the parties knew, at the time the contract was established, was most likely to happen if it is broken: Any loss or damage incurred due to the breach, both direct and indirect, is not eligible for this kind of compensation.

Facts regarding *Hadley vs. Baxendale*: In the claimant's mill, crankshaft breaking. He hired the Defendant to move the crankshaft to the repair location and to bring it back when the work was done. Due to the Defendant's carelessness, the crankshaft was returned seven days later than expected. Because they were not able to run the mill at this time, the claimant demanded compensation for lost earnings. The defendant contended as the possibility of the mill closing during the delay was unknown to him, making the loss of profit too small.

Held: The court determined that only standard damages were available to the claimant, and the defendant was exempt from liability for lost profits due to the fact that the only information provided claimant informed accused party that the item to be transported was a mill's damaged shaft and that they were unaware that the delay would cause them to lose money.²

2. Special damages

If a participant in a contract is informed of unusual circumstances impacting the agreement, he will be held accountable for both special and ordinary damages that result from the violation. The manufacturer who filed the lawsuit, *Simpson v. London & North Western Railway Company*, used to show off examples of his apparatus available at farming shows. He sent his demonstrations to the railway so they might be seen in New Castle. He wrote, "must arrive at New Castle on Monday certain" at the time. Due to the train company's incompetence, the samples were only received after the exhibition had ended. The plaintiff sued the train company, claiming they lost out on earnings from the show.

Held: The court determined that the railroading firm was responsible for paying these damages since it was aware of the unique conditions and had to have anticipated that a delivery delay could cause such losses.

3. Exemplary or vindictive damages

When one party breaches a contract, the affected party suffers not just from financial loss but also from disappointment and mental anguish. In these situations, monetary damages on their

² Guenter H Treitel Remedies for Breach of Contract: A Comparative Account (Clarendon, Oxford 1988) at 310-11 (emphasis in original).

own cannot offer the harmed person a suitable remedy for their distress. Thus, punitive damages are necessary. These could be interpreted as an exemption from the norm that stipulates damages are only given for actual monetary losses brought on by contract violations. According to the court in *Addies v. Gramophone Co. Ltd.*, the following three situations allow for the consideration of the injured party's mental anguish and pain:

1. Unwarranted dishonouring of a cheque,
2. Marriage vow breach, and
3. Failure of Real estate vendor to take title.

In *Gibbons v. Westminster Bank Ltd.*, (1939), the banker was accused of dishonouring a customer's cheque without authorization. The reason for this is that the harm caused to the cheque drawer as a result of the dishonour is so great that it results in a loss of his reputation and credit. A businessman with a stellar credit history has suffered, even in the absence of any monetary loss, will receive exemplary damages. However, under similar circumstances, a non-trader is not entitled to high damages unless the damages are claimed and proven to be unique damages.

4. Nominal damages

In cases when the plaintiff establishes a breach of contract but does not actually sustain actual damages, he may be granted nominal damages. It is given out merely to prove the entitlement to decree for the violation of the agreement. It could be one rupee or even less. *Sullivan v. Charter* (1957).³

The plaintiff sold the accused as a Hillman Minx automobile, but the defendant would not take it. The profit to the plaintiff would have been £97. However, because he could only get nominal damages only market the number of cars he could obtain from the manufacturers.

5. Damages for inconvenience

In the event that a party sustains bodily distress or mental anguish due to an infraction of the contract, such party might be qualified for compensation for such a bother. In the case of *Farley v. Skinner [2001]*, Farley and Skinner made a contract for Skinner to investigate a possible home for aviation noise. Aircraft noise, Skinner determined, was unlikely. Farley found out after moving in that the house was immediately beneath the circuit of Gatwick airport. Farley filed a lawsuit against Skinner due to a contract violation. The court determined that Farley was entitled to damages in this case because her feelings had been hurt.

³ Guenter H Treitel, "Some Problems of Breach of Contract" (1967) 30 MLR 139 at 139. (Website-lexscriptamagazine.com) 7 (lexscriptamagazine@gmail.com)

6. Pre-fixed damages

A contract's parties may agree at the outset that a specific sum will be awarded as damages in the event that any of them breaches the agreement. It could be equivalent to either liquidated damages or penalties.

FIT FOR A PARTICULAR PERFORMANCE

An equitable remedy known as "specific performance" is one that the court might use to hold a defendant accountable for fulfilling a contract that the plaintiff signed. This cure is provided by way of deviation. This makes this remedy different from the damages for breach of contract remedy, which results in monetary compensation for the party's failure to fulfil their end of the bargain. When one of the parties to the contract breaches their commitments, there are two viable remedies: damages and specific performance. This is a fair remedy that the judge may or may not provide. In other words, particular a court's order requiring a party to complete his contractual duties is known as performance.

This remedy is typically accessible in situations where damages are insufficient compensation, such as where the contract's subject matter—in Falcke's instance, Chinese vases—is unique.

➤ *Grey v. Falcke [1851]*

An antique merchant purchased two Chinese vases from a woman for £20 apiece. She sought another dealer to assess the vase since she started to have reservations about its true value before it was delivered. He made a £200 bid regarding the vases. The woman agreed to the terms, and the other dealer was told to give him the Chinese vases. The claimant was found to have a sole right to damages. In actuality, the claimant was not entitled to particular performance even though damages were an insufficient remedy because he had acted unfairly as he was aware of how ridiculously low the £20 pricing per vase was. The two sides did not have an equal relationship because the lady was not an expert.⁴

ACTION FOR INJUNCTION

An injunction is a court order that prevents someone from carrying out a specific act. It is a means of ensuring that the contract's negative provisions are specifically performed. In cases when a party violates the terms of the contract, meaning they are doing something they agreed not to do, the court has the authority to issue an order prohibiting them from executing their

⁴ Poole, J. (2003). Casebook on contract law. Oxford University Press.

end of the bargain. An injunction is therefore a preventive remedy. It is especially suitable where there has been an anticipated breach of contract and damages would not be sufficient compensation. Similar to particular performance, a remedy that is equitable is an injunction the court may give or deny. Three are present.

1. Temporary or transitory (permanent injunction that lasts until a hearing in court)
2. Prohibitory (a court ruling directing a party not to take a certain action)
3. Mandatory (a directive requiring a party to take an action)

When someone's rights are violated or harm is caused, it is appropriate to use an injunction to stop the action or conduct. It is crucial to note that, should an adequate legal remedy need both monetary damages and injunctive relief, you may request both while filing a lawsuit.

➤ **Lumley v. Wagner, 42 ER 687 (1852)**

The claimant recruited opera singer Johanna Wagner to do a three-month performance in his theatre. A clause in the agreement prohibited her from singing for anybody else as long as the agreement is in effect. Then Covent Garden Theatre manager Frederick Gye came up to her and made a larger payment ask her to perform a song for him. In order to keep her from giving a Covent Garden Theatre performance, the claimant requested an injunction. In situations when specific performance would not be accessible, the defendant contended that issuing an order would essentially equal to specific execution of the contract.⁵

Held: Despite the fact that the injunction effectively forced the defendant to lead the claimant in song.

Generally speaking, an injunction is not issued if it has the effect of forcing a party to an agreement to accomplish something that was not susceptible to a specific performance order, such as: The Troggs, a pop group, agreed to name the plaintiff serving as their manager and sole agent for a period of five years in the case of *Page One Records v. Britton*⁶. They also promised not to operate in that position themselves or designate any other individual during that time. They sought to replace the manager after they had a falling out.⁷ The claimant requested an injunction. It was decided that an injunction had to be denied since granting it would successfully force the Troggs to engage the plaintiff, which would be equivalent to requiring them to carry out the terms of a personal services contract.

⁵ Poole, J., Devenney, J., & Shaw-Mellors, A. (2017, 09).

⁶ [1968] 1 WLR 157, p 165

⁷ Restatement (2d) of Contracts § 241.

QUANTUM MERUIT SUIT

A party that has suffered because of a contract violation may pursue legal action against the responsible party through quantum meruit. In literal terms, quantum meruit translates to "as much as is" either "in proportion to the work done" or "earned." Utilisation rights upon quantum meruit typically occurs when a party breaches the contract after completing part of it, or when the contract is found to be void or only compensates for the work completed. It can also occur in addition to a claim for damages for breach (i.e., a claim for appropriate remuneration for the portion of the contract that was performed and damages for the remaining portion that was not).

Make A Quantum Merit Claim

The harmed person may sue on quantum meruit and seek compensation in in proportion to the following cases' worth of products or labour:

- I. In cases where labour was performed in accordance with a contract that the defendant's default discharged. This remedy can be used either way, such as by seeking reasonable damages instead of damages.

In the 1831 case of *Planche v. Colburn*⁸, for instance, Planche committed to writing a book about historical armour to be published in a Colburn-owned publication. He was supposed to get \$100 on fulfilment. The claimant had begun writing and finished quite a bit of the series when the accused party cancelled it. Regardless of the claimant's guarantee, the defendant declined to pay him and the plaintiff's ongoing readiness to finish. The plaintiff filed a lawsuit. Held: Since the defendant had stopped the performance, the claimant was entitled to receive £50.

- II. When work is completed in accordance with a contract that is found to be void or "becomes void," as long as the contract is divvied up. For instance, in the case of *Craven-Ellis v. Canons Ltd.*⁹, the plaintiff's services were accepted by the business. It was discovered that the business would have definitely engaged an agent to complete the services if the plaintiff had not completed them. As a result, the plaintiff was successful in getting payment from the business for the work completed on the basis of quantum meruit notwithstanding the fact that he did not receive his qualification portion in the allotted two months.

⁸ 172 ER 876(1831), EWHC KB J56

⁹ Mitchell, C. (2016). Landmark cases in the law of contract.

III. When there is no clear agreement between the parties, but something is done without any purpose of doing so freely.

In the Indian case of *Ram Krishna vs Rangoobed*¹⁰, for instance, it was decided that Since the activity was not intended to be free, A was entitled to payment, and the other party had benefited from it. A had used a tractor to plough B's field to B's satisfaction while B was present.

IV. A party found guilty of a contract violation may additionally file a lawsuit on a quantum mechanical system if both of the subsequent conditions are met:

The other party must have benefited from the portion that was fulfilled, even though he had the choice to decline it, and the contract must be divvy.

In the *Sumpter v. Hedges (1898) 1 QB 673*¹¹ case, for instance, the claimant promised to construct two homes and stables belonging to the accused. Upon completion, a payment of £565 was agreed upon. The claimant ran out of money while performing and was unable to finish. He had accomplished the obligation to a little over half. The accused finished the task on his own. The claimant wanted to be compensated £333 for the task that he had finished. He contended that by finishing the task himself, the defendant had consented to partial performance and hindered the claimant from carrying out their half of the agreement. Held: The claimant's attempt was unsuccessful. The defendant was left with compelled to accept only a portion of the performance, the court ruled.

CONCLUSION

A breach is when a law is broken. A party commits a breach of contract when he relinquishes his liability under it, or when he causes his own actions to make when he is unable to fulfil his responsibilities under it, or when he is unable to fulfil his obligations in whole or in part. The individual hurt due to a violation of contract may hold the other party liable for damages to make up for the lost money. The aggrieved party may pursue one or more of the following remedies in the event of a breach of contract: a lawsuit for specific performance, damages, an injunction, rescission, and quantum meruit. The majority of the time, unclear language in contracts lead to breaches. Ensuring that the involved parties understand the rules and regulations in the contract in order to prevent a breach from occurring.

¹⁰ AIR1959BOM519

¹¹ 1898 LawSuit(UKCA) 108, or 1898 1 QB 673.