

TERMINATION OF OFFER

Revocation must also be communicated – *Fitch vs Snedaker*

Revocation of proposal possible if acceptance is not complete.

Sec. 6 - A proposal may be withdrawn under four circumstances:

- By communication of notice of revocation by proposer to other party – *Bryne vs Tienhoven*
- By lapse of time (prescribed or reasonable) – *Ramsgate Victoria Hotel vs Montefiore*
- By failure of acceptor to fulfill a condition precedent to acceptance – *Hyde vs Wrench*
- By death or mental disorder of the proposer if such fact comes to the knowledge of the acceptor before acceptance – *Bradbury vs Morgan*

Termination of Law

An offer may be terminated in the following ways:

- Revocation. i.e. withdrawal of the offer

A promise to keep an offer open for a fixed period does not prevent its revocation within that period. However a person may buy a promise to keep an offer for a fixed period.

It must be communicated before acceptance → *Routledge vs Grant* - Facts: Defendant offered to buy plaintiff's house for a fixed sum, requiring acceptance within 6 weeks. Within 6 weeks, defendant withdrew his offer. Held: defendant could withdraw any time before acceptance. There's no contract.

Revocation is ineffective until communicated to the offeree → *Bryne vs Van Tienhoven* - Facts: defendant made an offer to plaintiff on October 1. Plaintiff received letter on October 11 & accepted by telegram. On October 18 defendant sent a letter revoking the offer, which arrived on October 20. Held: there was no contract since revocation not communicated.

Communication of revocation is sufficient if communicated by reliable third party → *Dickinson vs Dodds* - Facts: On 10 June, defendant wrote to plaintiff to offer property for sale. Offer was open till 12 June. On 11 June, defendant sold the property to another person, who knows plaintiff. On 12 June, plaintiff handed to the defendant a letter of acceptance. Held: there was no contract since revocation was communicated by a third party.

- Refusal or Counter Offer

Counter-offer is a rejection of the original offer.

Hyde vs Wrench - Facts: Defendant offered to sell property to plaintiff for £1000. Plaintiff made a counter-offer for £950, which defendant rejected. Plaintiff then purported to accept for £1000. Held: there is no contract because the original offer has been rejected.

Butler Machine Tool Co v Ex-cell-O Corp, England (1979) - Facts: Claimant offered to sell tools to defendant. Their quotation included details of their standard terms. Defendant 'accepted' the offer, enclosing their own standard terms. Claimant acknowledged acceptance by returning a tear-off slip from the order form. Held: The defendant's order was really a counter-offer. The claimant had accepted this by returning the tear-off slip.

REMEDIES

There are several remedies provided by law to give relief to party not in default in breach of contract.

1. Rescission

As dealt with in previous part under Sec 40.

2. Damages

Damages are granted to a party as compensation for the damage, loss or injury done / suffered through breach of contract - but damage can't be too remote or indirect.

Damages can be classified as substantial, nominal or exemplary.

Sec 74 - 'when a contract has been broken, the party who suffers is entitled to receive compensation for any loss or damage which naturally arose in the usual course of things or which the parties knew, when they made the contract, to be likely to result from the breach'.

Illustrations to Sec 74 also indicate that the aggrieved party may recover damages -

- for other expenses incurred as a result of the breach
- for loss of profits arising out of the breach
- for the difference b/w the price of goods as contracted for and the actual price the goods were sold for as result of the breach.

Sec 75 - 'When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach...or any other stipulation by way of penalty, the party complaining of the breach is entitled to receive...reasonable compensation not exceeding the sum named or the penalty stipulated for.'

The effect of fixing the sum - to determine the upper limit of compensation.

Nevertheless, party seeking damages is also under the duty to mitigate the loss - *Kabatasan Timber Extraction Co.*

3. Specific Relief

The Specific Relief Act provides for the remedy of specific performance - discretionary by nature.

It is a decree of the courts directing the contract to be performed according to its terms.

Sec 11 in trust cases and where no adequate relief.

Sec 12 - presumption in cases of transfer of land

Sec 18 - court has power to award damages in lieu of SP

Sec 21 - court has discretion to refuse specific performance if cause undue hardship to the defendant.

Sec 20 - circumstances where no SP can be enforced:

- where money is adequate relief.
- contract with minute details.
- contract dependent on personal qualification.
- contract that will need supervision of the court.
- contract with uncertain terms.