

## **A Comprehensive Examination of Void Agreements under Sections 26, 27, and 28 of the Indian Contract Act**

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### **Abstract**

This article provides a comprehensive examination of invalid agreements as defined in Sections 26, 27, and 28 of the Indian Contract Act. Void agreements are a key term in contract law that refers to transactions that cannot be legally enforced owing to statutory limitations.

This paper comprehensively analyses the legislative provisions and related case law to clarify the specific criteria and situations that make agreements invalid under the Indian legal system. The text examines the specific reasons for invalidity as stated in Sections 26, 27, and 28, which include agreements without consideration, agreements that restrict marriage or trade, and agreements that contravene public policy. The analysis examines the underlying reasons behind each provision and assesses their impact on the legal validity and enforceability of the contract. This text explores the pragmatic importance of recognising void agreements in commercial disputes, emphasising the legal ramifications for the parties concerned.

Moreover, the study delves into the intricate details of legal principles and court rulings related to void agreements, analysing how courts have implemented these rules in various factual scenarios. The text examines possible difficulties and uncertainties in assessing the invalidity of agreements and provides valuable perspectives on the thought process and decision-making of judges.

### **INTRODUCTION**

Being voidable is one of the fundamental conditions for a contract to exist. "All agreements are contracts...that are not hereby expressly declared to be void," according to Section 10<sup>1</sup> of the Indian Contract Act. A contract may be void for a number of reasons, such as:

1. It can be void ab initio.<sup>2</sup>
2. It goes against public policy or the ideals of justice and fairness.

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<sup>1</sup> Sec. 10 of Indian Contract Act, 1872

<sup>2</sup> Indian contract act 1872

3. A future change in the law renders it null and void.

4. The entire task has already been completed.

Certain agreements simply hurt society. They violate the law. Agreements to prevent marriage, commerce, or legal actions are a few examples of these agreements. The Indian Contract Act specifically declares these agreements to be void under Sections 26, 27, and 28, respectively.<sup>3</sup>

## A. VOID AGREEMENT

While a void contract is legitimate when it is first entered into but later becomes void or unenforceable, a void agreement is void ab-initio, meaning it is void from the beginning.

There are many kinds of void agreements, some of which are stated explicitly to be void. The law regards such agreements as null and void. Because they violate public policy, expressly invalid agreements are viewed as detrimental to society. Such agreements are expressly declared void under section 26-28 of the Indian Contract Act.

### 1. Agreements that are in Restraint of Marriage - Section 26<sup>4</sup>

All agreements that restrict marriage are considered expressly void under section 26 of the Indian Contract Act, unless they concern minors. Any arrangement that forbids one or more parties from marrying or restricts marriage is legally unenforceable and, as such, is void. The purpose of the provision is to safeguard everyone's freedom to become married. However, agreements involving children are exempt from this clause. An adult's agreement to forgo marriage as payment in lieu of consideration is specifically deemed void.

*Nirmala vs. Shrawan Kumar*,<sup>5</sup> the plaintiff in this case claimed that the defendant had agreed to wed him but had instead wed another person. He requested that her marriage to the other individual be prohibited. Due to the agreement's deemed void status, the plaintiff lost the case.

In terms of marriage restriction, the *Lowe v. Peers*, case established a precedent. In this instance, the defendant said that within three months after getting married, he would give the plaintiff a thousand pounds if he married someone else. Such an agreement was ruled to be null and void.

### 2. Agreements in Restraint of Trade - Section 27<sup>6</sup>

The Act's Section 27 renders agreements that hinder trade unenforceable. Stated differently, any contract that prohibits an individual from initiating or pursuing a company or vocation in return for monetary payment is void. Consequently, any agreement that prohibits an individual from conducting business in a way or place of their choice on the basis of a mutually beneficial arrangement wherein the other party

<sup>4</sup> Sec. 26 of Indian Contract Act, 1872

<sup>5</sup> WRIT - C No. - 62174 of 2012

<sup>6</sup> Sec. 27 of Indian Contract Act, 1872

gains an advantage from the individual giving up their trade or profession is referred to as a trade constraint agreement.

In *Madhub Chander v. Raj Coomar*<sup>7</sup>, the plaintiff and respondent operated a comparable business in the same neighbourhood of Calcutta. The plaintiff and the defendant made a deal whereby the plaintiff would pay the defendant a certain amount if the defendant closed his business in that region. The defendant declined to settle the obligation, but the plaintiff closed his business in that location. It was the plaintiff who sued him. The court decided that the two parties' agreement is null and void since it involves complete hindrance of commerce.

In *Krishan Murgai v. Superintendence Co. of India Pvt. Ltd.*,<sup>8</sup> the Supreme Court determined that Section 27 cannot have two interpretations because it specifically declares all agreements to be void.

### 3. Agreements in restraint of legal proceedings- Section 28<sup>9</sup>

A contract between parties that states they will not bring or maintain legal action against one another under specific conditions is known as an agreement in restraint of legal proceedings. Depending on the nature of the disagreement and the goals of the parties, these agreements may take many different forms.

#### **B. All agreements are, in essence, null and void if and only if they:**

- Make it unlawful for a party to file a complaint with the appropriate court or tribunal in the event that the parties' rights have been violated.
- Set a deadline for the harmed party to file a case with such a court or tribunal.
- Create an agreement that releases a party from liability.

#### Exclusivity

- Preserving a contract to address potential arbitration disputes;
- Preserving a contract to address inquiries that have already surfaced.

*Food Corporation of India v. New India Assurance Co. Ltd.*,<sup>10</sup> the Supreme Court ruled in this case that an agreement's terms should not be interpreted in a way that prevents the other party from pursuing the suit's remedies.

## CONCLUSION

That is to say, the harmed party will not be able to bring the matter before a court or other suitable body to have his or her rights upheld if any party to the agreement fails to fulfil his or her obligations under it. Such agreements include those that restrict trade, marriage, and legal proceedings.

<sup>7</sup> (1874) Beng LR 76

<sup>8</sup> (1981) 2 SCC 246

<sup>9</sup> Sec. 28 of Indian Contract Act, 1872

