

## Book Review

### CONTRACT LAW\*

*Shaik Nazim Ahmed Shafi*

The present society depends upon free exchange in the market at every stage. The interactions in the market or business at all times depend upon voluntary agreements between individuals or any legal persons. Such voluntary agreements can never become binding without a legal contract. Though it may sound strange, it is often a problem in the business world that parties fail to implement a properly constituted and executed written contract between them. A contract is an essential element of any agreement whether it is for a sale, purchase, employment or arrangement. It regulates the very foundation of the agreement between the parties and sometimes importantly, governs what happens if it all goes wrong. A good written contract is advised even where the agreement is formed and based on a relationship despite there being trust in the relationship as we can never predict when a relationship will go wrong. With the advent of the recent economic reforms through the process of '*Liberalisation, Privatisation and Globalisation*', the contract law is strengthened by way of parties entering into '*international contracts*'. Hence, it is pertinent to note that a person, who enters into an agreement, must understand the language of contract law which lays down the essential principles as imbibed in this particular book.

The book 'Contract Law' authored by Prof. Akhileshwar Pathak has made a valuable contribution to the general understanding of contract law. The book offers an overview approach to contracts, yet it recognizes all contract's complexities. The book is segmented for easy digestion of difficult material by applying a methodology of Case, Cases for Analysis, Examples, Court Cases, and Application of Principles. The book also cites the Sections under the Indian Contract Act, 1872 for better appreciation of the subject.

This single volume contains 6 parts covering every facet of a contract from formation of agreement to restitution, breach and damages, with a start of introduction to the contract law. The introduction offers a brief overview of contract law, setting the stage for the well-focused chapters on specific issues that follow.

Part-I speaks of the 'Formation of Agreement' dealing with Offer, Acceptance and Agreement giving a picture how a market based economy

---

\* Visiting Faculty, NALSAR University of Law, JusticeCity, Shameerpet, Hyderabad. Prof. Akhileshwar Pathak, 1st edition 2011, published by Oxford University Press, YMCA Library Building, 1 Jai Singh Road, New Delhi 110001, India, pp. viii + 407, Price Rs. 395/-.

has given an opportunity to the individuals in exchange of their rights over property rights etc. This Part draws the attention of the readers to the various facets of formation of agreement with simple examples supported by cases and adherence of the principles at the formation of a contract. The author tried to bring out the principles laid down in English law and its applicability under Indian law. Under the title 'Business Practices and Formation of Agreements' the author stresses on, the rules of an offer and also by defining the various exceptions to the general rule. At this juncture of communication, the author adds a colour of recent technological developments in the area of electronic communication and its application in contract law i.e. the internet and e-shopping outlining the validity of communication. A reference is also made regarding the validity of acceptance and circumstances leading to rejection of an offer. Taking note of the aforesaid importance of offer and communication, a review of judgments in formation of agreements is highlighted. The author focused the relevancy of 'Place of Contract' and 'Jurisdiction of Court' by taking inputs from the Civil Procedure Code relating to the jurisdictional issues pertaining to the outcome of disputes under a contract. Vehemently, he discusses the 'Postal Rule'. Regard is made to explain the validity of a 'Unilateral Contract' and a 'Bilateral Contract' which is discussed at length. During the formation of contract, 'Incorporation of Terms' plays a vital role in making the terms binding on the parties and it is well discussed by the author. Simultaneously, the author points out how the mistakes are committed during the process of agreement relating to the identity of a person or of the subject matter by explaining the types of mistakes a party to the contract is confronted.

Part-II lays down the important ingredient for formation of a contract known as 'Consideration' subject to exceptions which is elaborately dealt from the concept level upto the creation of legal relationship through various decided English as well as Indian case law on this point. Dealing with 'Consideration and Revocation of Offer' - whether an agreement not to withdraw an offer is binding, is illustrated with examples through Cases for Analysis. How well the consideration plays a vital role is focused when the terms of a contract take form like of a remission, alteration etc. is discussed at length. At the end of this part, 'Promissory Estoppel' an innovation of the British courts is examined with care and caution. This part is summed up by – how intention creates a legally binding relationship, whether intention is the crux in formation of a contract, is dealt precisely.

Part-III draws the inference from a contract for its validity by taking the factors by which a contract has come into play by involuntariness. As a rule, a contract comes into existence only when there is a 'Free Consent'. But under what circumstances a contract is influenced without free consent is dealt elaboratively with the support of the provisions under Indian Contract Act 1872 and also the case law. A review of Indian cases is also explained for the purpose of understanding. This part also brings out the qualification required to enter into a contract known as 'Capacity of Parties' by highlighting the Privy Council's decision in *Mohiri Bibee's* case. At this juncture the author correlates the subject with the provisions of other laws like the Transfer of Property Act 1882.

Part IV evaluates a contract by looking into its object for which the parties have agreed thereupon. As contract law emerges out of a private agreement between the parties, it is prone for its vices like transgressing the prohibitions of law. Any private agreement cannot have precedence over the statutory law. But if it contains the factors like defeating the provisions of law, violating the provisions of law, fraud, illegal, immoral or against public policy etc. then the contract becomes void. So this part shows the way through which one can easily understand under what circumstances the parties can make a contract valid. Hence, the circumstances leading to a void contract are clearly spelt out. However, this part is dealt with cases and also with a review of court judgment.

Part V paves the way for 'Discharge and Performance'. As the contracts are based on the reciprocal promises between the parties, each party has to perform his obligation by which it leads to performance of the contract. When once the parties to a contract have performed their respective obligations, then they are discharged from the contract. This part deals with how contracts are performed and how they are discharged. It also highlights the manner of performance, who should perform the contract, time and place of performance, and discharge by mutual consent. The impossibility of contract is explained by taking the development of the law in India through exploring the issue by the facts of the cases like the *Satyabrata Ghose's* and *Naihati Jute Mill's* case.

Finally, Part VI concludes with the 'Restitution, Breach and Damages'. Contract comes into existence by way of agreement. But there are some contracts without any agreement but resembles a contract, which are dealt precisely under the head Quasi-Contracts. In this part it deals with how a party can be made liable to pay the other without an agreement (quasi-contract) or with agreement for its breach etc. The factors leading to breach

and termination, anticipatory breach, are well discussed with English as well as Indian Case law. The principle for award of damages is clearly dealt with. Liquidated damages, mitigation of damages, penalty etc. are also explained elaboratively.

The said book is presented in a good style of fine printing in a legible font and binding by which a reader can update the subject with utmost satisfaction. At the end, a Case Index is given for reference purpose on various cases of English and Indian origin.

The author having dealt the 'Contract Law' very precisely, concisely with accuracy touching each and every aspect of law referring and correlating the relevancy of other laws like the Civil Procedure Code, Transfer of Property Act, etc. in a very simple and understanding language with an analysis of principles, cases, illustrations, case-analyses, review of Indian judgments etc. will prove and cater the needs of law students, teachers, researchers, lawyers, judges and also the layman who is eager to know the precepts of contract law and its application in their profession like the builders, contractors, engineers, and infrastructure and aviation related personnel. Over and above, the author has assimilated the technological developments in the sphere of Contract by adding Internet and E-Shopping. On the whole this book serves one and all without any barrier in attaining the knowledge over the said subject.