

Fundamentals of Anglo- American and Polish Legal Systems – Contract Law

Dr Jan Halberda
(jan.halberda@uj.edu.pl)

How the contract discharges?



1. Performance
2. Breach of contract
3. Agreement
4. Frustration



How the contract discharges?

2. Breach of Contract

- Anticipatory breach of contract



How the contract discharges?

2. Breach of Contract (=Wrong)

- Minor breach
 - > damages
- Material breach
 - > damages / special performance / injunction
- Fundamental (repudiatory) breach
 - > damages / rescission



How the contract discharges?

2. Damages for breach of Contract



- Nominal damages (eg: 1\$)
- Liquidated damages (eg: 100\$ per day)
- Statutory damages (eg: §1 of ??? Act)
- Compensatory (actual) damages:
 - Reliance damages (exception)
 - Expectation damages for breach of Contract (rule)
 - Pain and suffering (not available in contract)
- Punitive / Exemplary damages (not available in contract)

How the contract discharges?

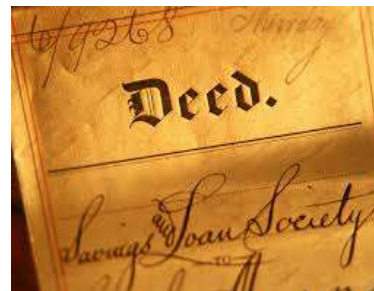
3. Discharge by agreement



If the original contract provides so.

New agreement – Accord and satisfaction (consideration needed).

Deed (without consideration)



How the contract discharges?

4. Discharge by frustration



Old law (absolute duty) – Paradine v. Jane (1647)

New law (doctrine of frustration) – Taylor v. Caldwell (1863)

If some outside event occurs for which neither party is responsible and which makes total nonsense of the original contract.

How the contract discharges?

4. Discharge by frustration

Consequences:

The contract discharges.

The sums already paid – recoverable.

The sums not yet paid – cease to be due.



Two meanings of Consideration



time



I. Contract Formation

- Consideration as an equivalent of Roman Causa



II. Contract Performance

- Consideration as a Performance
- Total Failure of Consideration



How the contract discharges?

4. Discharge by frustration

Examples:

Subsequent physical impossibility

- Taylor v. Caldwell (1863)



How the contract discharges?

4. Discharge by frustration

Examples:

Subsequent illegality

– Fibrosa case (1942)



How the contract discharges?

4. Discharge by frustration

Examples:

Basis of contract removed

– coronation cases,
e.g. *Chandler v. Webster* (1904)



How the contract discharges?

4. Discharge by frustration



Examples:

Frustration of commercial purpose of the contract -> no frustration if after change of circumstances the performance is still possible



- Suez Canal cases, e.g. (1962)
- Covid-19 cases (2021-??) ☹️