

Interpretation of Contracts

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Scope of Discussion

Rules of Interpretation of Contracts

- Intention of Parties
- Formation of Contract
- Four Corner Rule
- Contra-Preferentum Rule

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Why Contracts?

- ◆ Many companies have no clear risk governance structure.
- ◆ Risk is misunderstood.
- ◆ Therefore risk mitigation through four corners of contract
- ◆ True Interpretation of roles & responsibilities through contract

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What Contracts do for you?

- ❖ Contracts identify major risks [full range of outcomes]
- ❖ Contracts decide which risks you should own or will transfer
- ❖ Contracts embed risk in all decisions and processes.
- ❖ Contracts align governance & organization around risk

Rules of Interpretation of contracts

In constructing and interpreting contracts, courts are aided by certain rules

Rule-1: Intention of Parties

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- When persons enter into an agreement, it is to be presumed that they intend to have some effect of their agreement through their intentions.
- Court will check these intentions

Intention of the Parties:

- A contract is therefore to be enforced according to its terms.
- A Court cannot
 - reconstruct,
 - remake or
 - re-writethe contract of the parties under the pretense of interpreting it.

Intention of the Parties (Cont...)

- If dispute regarding meaning of a contract, court determines what parties intended
- In the absence of a proof given by a particular word, a common word is given its ordinary meaning

Intention of the Parties (Cont...)

(a) Objective intent: When it is stated that the law seeks to enforce the intent of the parties, this means that the intent is outwardly manifested and understood by a third person

Intention of the Parties (Cont...)

(b) Meaning of Word: Ordinary words are to be interpreted according to their ordinary meaning.

However, the prior relationship of the parties may give meaning to the words used by parties

e.g., delivery of goods

Intention of the Parties (Cont...)

(c) Incorporation by Reference:

Missing terms may be found in another related document,

e.g., supply schedule for the contract is the list of goods attached to the contract.

Intention of the Parties (Cont...)

(d) Expectations distinguished from

Meaning: A contract means what it says.

A contracting party must avoid reading into a contract something that it does not say but the that party wishes it.

e.g., the word "permanent" in a contract provision for employment.

Intention of the Parties (Cont...)

(e) Economic Realities: In searching for the intent of the parties, a court will view their contract in the context of economic realities surrounding its execution.

Intention of the Parties (Cont...)

(e) Economic Realities(cont...):

When uncertainty exists over nature & value of:

- new or used goods
- kind of insurance

payment & performance specified in a contract are usually commensurate with their value or worth.

Rule-2: Form of Contract

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Rule-2: Form of Contract

(a) Whole Contract: The provisions of a contract must be construed as a whole in such a way that

- every part is given effect.
- every word is given effect
- if plain language solves the dispute, no further analysis is to be made

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Form of Contract (Cont....)

(b) Contradictory & Ambiguous Terms:

- One term may conflict with another term
- Two terms may have different meanings

Court decides whether there is a contract, and if so , what really the contract means.

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Form of Contract (Cont....)

(b) Contradictory & Ambiguous Terms

(Cont..)

- In case of a conflict about a significant matter, contract ceases to exist.
- Conflict may be eliminated by introducing the Parole Evidence Rule.

Form of Contract (Cont....)

(c) Nature of Writing:

When a contract is:

- partly printed & partly type-written
- partly printed & partly handwritten
- Partly type-written & partly hand-written

and a conflict in terms or their interpretation arises

Form of Contract (Cont....)

(c) Nature of Writing: When a contract is:

- the hand-written part prevails over type-written or printed part
- the type-written part prevails over printed part

More attention is given to hand-written or typed part

Rule-3: Four Corner Rule

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Rule-3: Four Corner Rule

Content based Interpretation:

- When intent of parties is uncertain
- more than one reasonable interpretations

Whatever content available within the four corners of the contract Document, only that will be subjected to interpretation

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Rule-3: Four Corner Rule (Cont...)

Disagreement over legal effect of terms used by parties does not make contract ambiguous

Ambiguity appears only when terms applied to full extent

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Rule-4: Contra-Preferentum Rule

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Rule-4: Contra Preferentum Rule

- ❑ **Strict Construction against Drafting Party**
- An ambiguous contract is interpreted strictly against the drafting party.

e.g., Printed forms of Insurance companies.

Court favours the insured if two possible interpretations

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Case Scenario-1

In letters between the two, Rita Borelli contracted to sell “my car” to Viola Smith for \$2000. It was later shown that Borelli owned two cars. Borelli refused to deliver either car to smith, and Smith sued Borelli for breach of contract. Borelli raised defence that the contract was too indefinite to be enforced because it could not be determined from the writing which car was the subject matter of the contract. Is the contract too indefinite to be enforced?

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Case Scenario-2

Physicians Mutual Insurance Co. issued a policy covering Brown's life. The Policy declared that it did not cover any deaths resulting from "mental disorder, alcoholism, or drug addiction." Brown was killed when he fell while intoxicated. The Insurance company refused to pay because of the quoted provision. His executor, Savage, sued the insurance company. Did the insurance company have a defence?

Thankyou
Q & A
