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1. BREACH OF CONTRACT

Firstly, we have to know about the meaning of contract because; a contract must exist before a breach of contract can take place.

A contract is a legally binding agreement that recognizes and governs the rights and duties of the parties to the agreement (1). A contract is legally enforceable because it meets the requirements and approval of the law. A contract is a legally binding promise made between two parties. Each party to a contract promises to perform a certain duty, or pay a certain amount for a specified item or service. The purpose of a contract being legally binding is so each party will have legal recourse in the event of a breach.

Contracts may be bilateral or unilateral. A bilateral contract is an agreement in which each of the parties to the contract makes a promise [2] to each other. For example, in a contract for the sale of a car, the buyer promises to pay the seller N12,000,000 in exchange for the seller's promise to deliver title to the car. These common contracts take place in the daily flow of commerce transactions. While unilateral contract is when one party makes a promise, but the other side does not promise anything. In these cases, those accepting the offer are not required to communicate their acceptance to the offeror.

Now that the meaning of contract is understood, I will explain what the term breach of contract is. Breach of contract can be defined as a legal term that describes the violation of a contract or an agreement that occurs when one party fails to fulfill its promises according to the provisions of the agreement. Breach of contract can also be defined as legally, when one party's failure to fulfill any of its contractual obligations is known as a "breach" of the contract. A contract can be breached in whole or in part and a breach of contract can happen in both a written and an oral contract.

A party, who feels that a promise is broken in a contract, will draft a breach of contract letter to the other party, and then if it becomes necessary, a lawsuit will be filled in a court.

When a party claims breach of contract, the judge must examine some of the following points, which are;

1. Did a contract exist and was it valid? ; To claim breach of contract, there must be an actual, valid contract in place. It is not necessary for a contract to be put in writing, as oral contracts are enforceable by the court system. To prove the existence of a valid contract there must be an offer, acceptance and consideration.

2. If so, what did the contract require of each of the parties?

3. Was the contract modified at any point?

4. Did the claimed breach of contract occur?

5. What damages were caused by the breach? ; To be successful in a breach of contract case, the aggrieved party must prove that they have suffered some type of loss or damages as a result of the breach.

A defender that is being sued has the legal right to be heard in a court, this process is called defense. Some common reasons for breach of contract are;

1. Duress: when a party is been forced especially in a physical way to sign a contract.
2. Fraud: if the defendant finds out that the contract is fraudulent and the claimant hid it from him.
3. Mistake: An error committed by the defendant can't invalidate a contract and take away a breach of contract case.

There are four main types of breach of contract which are

1. Material breach
2. Fundamental breach
3. Anticipatory breach
4. Minor breach
5. Material breach: this is when a party fails to perform obligations under the contract in such a way that the value of the contract is destroyed, which exposes that party to liability for breach of contract damages. In another excess, it can be defined as when you receive something that is different from what was stated in the agreement. For example, if Robert James makes an order for 20 footballs and the seller brings 20 tennis balls, that is a material breach
6. Fundamental breach: this breach most likely ends up in the court. The aggrieved party can immediately stop performance and sue for damages. For example, if Mr. John pays a car dealer a certain amount of money for a specified car and on the day of taking the car from the company, he finds out that the cars has already been bought, Mr. John will file for damages as a result of fundamental breach of contract
7. Anticipatory breach: also known as “anticipatory repudiation,” occurs when one party to a contract stops acting in line with the contract, making the other party to believe he has no intention of fulfilling his part of the agreement. For example, if miss Ruth visits a tailor and tell her she will buy a particular piece of material for N10,000 on May 1st but on April 23 she meets her that she cannot raise such amount of money, anticipatory breach has taken place, because the tailor thinks she is no longer interested in paying her for the material on May 1st .
8. Minor breach: also known as partial breach. A breach is minor when goods or services are not timely delivered to the other party. Or it can be seen as when a party fails to perform certain obligation to a contract which will lead to damages to the other party.
9. REMEDIES FOR BREACH OF CONTRACT

Once a party proves to the court that a breach of contract has happened, that party is entitled to remedy and the most common remedy when one party is found to be in breach of a contract is a monetary payment.

There are several remedies for breach of contract, such as award of damages, specific performance, injunction and Quantum Meruit .

1. Damages: The payment of damages which is payment in one form or another is the most common remedy for a breach of contract. The underlying basis for the common law remedy of damages was laid down by Parke.B in the case of *Robinson v. Harman* as follow;

*The rule of common law is that when a party sustains a loss by reason*

*Of a breach of contract, he is, so far as money can do it, to be placed in*

*The same situation, with respect to damages, as if the contract had been performed.*

There are many kinds of damages, including the following:

1. Compensatory damages***:*** itaims to put the non-breaching party in the position that they would have been in if the breach had not occurred in the contract.
2. Punitive damages***:***are payments that the breaching party must make, above and beyond the point that would fully compensate the non-breaching party. Punitive damages are meant to punish a wrongful party for particularly wrongful acts, and are rarely awarded in the business contracts setting.
3. Nominal damages***:*** these are small amount of damages awarded when a breach of contract occurs.
4. Liquidated damages: these *are* particular damages that were previously identified by the parties in the contract. The parties to a contract may agree in advance to fix the sum payable as damages by either of both parties in the event of breaches of the contract. It becomes a liquidated damage clause if the aim is to make a genuine pre estimate of the loss of the plaintiff is likely to suffer in the case of a breach.
5. Exemplary damages: these are damages awarded against the defendant as a punishment, so that the assessment goes beyond mere compensation to the plaintiff. It’s mostly applied in law or tort but it was severely restricted in the case of Rookes v. Barnard.
6. Specific performance: this is a form of remedy whereby the court orders the defendant to perform the contract which was made before.it is also a relief in equity. This is mostly used in contracts for sale of goods but monetary compensation is more suitable. Though in cases of a contract to convey land or to sell a famous painting, specific performance is adequate and it was established in the case *of Ryan mutual v. Tontine Association3.* Before a court can give specific performance as a remedy, the court will consider if damages will be the adequate compensation than that of specific performance. For example, in the case of *Taylor v. H.B Russel4,* the court of appeal refused to grant specific performance in a contract for piece of land because, the defendant sold the land to someone else and that person in turn sold the land to another person and also sold it to the fourth person. Specific performance was not granted because the defendant cannot carry out the order to the plaintiff because the land is no longer for the defendant.

There are situation in which the court grants specific performance immediately because an award for damages will defeat the just expectation of the buyer. In the case of *Paye v. Gaji5,* the vendor of the piece of a family property wrongly refused to execute the conveyance of the property after the payment of purchase price by the buyer. The family representatives were prepared to refund the purchase price but the court rejected it and ordered for a specific performance.

1. Injunction: an injunction is an order or decree by which one party to an action is required to do or stop doing a particular thing it can be either be mandatory or restrictive. For example in the case or Warner bros. picture Inc. v. Nelson6, the actress entered into a contract with the plaintiff that she would not work for any other organization during her contract with them. An injunction was issued to refrain her from a breach of contract when she intended to enter a contract with a third party
2. Quantum Meruit: Translated from Latin, the term means "as much as he deserved. A court can award one party payment for what they deserve for any work that the party performed before the other party breached the contract. For example, if the chef in the example above had cooked half of the foods in an event, and then the party decides that he didn't want him to finish, the plaintiff can demand N40,000as quantum meruit. In the case or Warner and *Warner v.F.H.A7*,where the respondent wrongfully terminated a building contract which was already partly completed the supreme court held that, the injured contractor can either sue for damages or request that a reasonable amount of money should be paid for the job he did. Quantum Meruit are chosen when the reasonable price is higher than the contract price.
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