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Breach of contract" is 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. Sometimes it involves interfering with the ability of another party to fulfill his duties. A contract can be breached in whole or in part.

Most contracts end when both parties have fulfilled their contractual obligations, but it's not uncommon for one party to fail to completely fulfill their end of the contract agreement. Breach of contract is the most common reason contract disputes are brought to court for resolution.

A breach of contract suit must meet four requirements before it will be upheld by a court.

The contract must be valid. It must contain all essential contract elements by law. A contract isn't valid unless all these essential elements are present, so without them, there can be no lawsuit.

The plaintiff or the party who's suing for breach of contract must show that the defendant did indeed breach the agreement's terms.

The plaintiff must have done everything required of them in the contract.

The plaintiff must have notified the defendant of the breach before proceeding with filing a lawsuit. A notification made in writing is better than a verbal notification because it offers more substantial proof.

Types of Breach of Contract

Breach of contract can be material, partial, or anticipatory.

A material breach is one that is significant enough to excuse the aggrieved or injured party from fulfilling their part of the contract.

A partial breach is not as significant and does not normally excuse the aggrieved party from performing their duties.

An anticipatory breach is one where the plaintiff suspects that the offending party might breach a contract by doing or failing to do something that shows their intention not to complete their duties. Anticipatory breaches can be very difficult to prove in court.

1.A breach of contract is a violation of any of the agreed-upon terms and conditions of a binding contract. The breach could be anything from a late payment to a more serious violation such as the failure to deliver a promised asset. Breach of contract is a legal term that describes the violation of a contract or an agreement that occurs when one party fails to fulfil its promises according to the provisions of the agreement. Sometimes it involves interfering with the ability of another party to fulfil his duties. A contract can be breached in whole or in part.

When a breach is committed, there is a sense of deviancy, non-compliancy, disruption or alteration in a previously agreed and established deal; hence, a breach of contract is committed when a party without lawful excuse fails or refuses to perform what is due from him under the contract, or performs defectively or incapacitates himself from performing. Such breach gives right to the aggrieved party to an action for damages against the guilty party. A breach of contract may entitle the injured party to claim damages, the agreed sum, specific performance or an injunction. Breach may also give the injured party the right to “terminate” the contract.When considering breaches, one would consider the concepts of anticipatory breach, which is said to occur when a party renounces the contract or disables himself from performing it before the performance is due. In the case of ***Hochster v De la Tour (1853)***, the claimant agreed to be a courier for the defendant for 3 months starting on 1st June 1852. On the 11th May the defendant wrote to the claimant stating he no longer wanted his services and refused to pay compensation. The claimant obtained a service contract elsewhere, but this was not to start until 4th July. The claimant brought an action on 22nd May for breach of contract. The defendant argued that there was no breach of contract on 22nd May as the contract was not due to start until 1st of June. It was held that where one party communicates their intention not to perform the contract, the innocent party need not wait until the breach has occurred before bringing their claim. They may sue immediately, or they can choose to continue with the contract and wait for the breach to occur.

Parties claiming an anticipatory breach are obliged to make every effort to mitigate their own damages if they wish to seek compensation in court. That could include halting payments to the party that committed the breach and immediately looking for ways to minimize the effects of the breach.

In addition to the forms of breaches, there is material breach, which is one that is significant enough to excuse the aggrieved or injured party from fulfilling their part of the contract, and partial breach, which is not as significant and does not normally excuse the aggrieved party from performing their duties.

There is also the Fundamental breach, which refers to one of the parties in the agreement not keeping their part of the deal by failing to complete a contractual term that was essential to the agreement so much so that another party could not complete their own responsibilities in the contract. Because this type of breach is so critical to the contract being carried out, it is often grounds for the aggrieved party to cancel the contract entirely.

There are several reasons as to why such a breach is made; they include:

Failure or refusal to perform- failure to comply with an agreed obligation amounts for a breach of contract. It is however crucial to consider whether performance is a promise or a condition, because there are instances where a party might make a promise to the other party provided that the other party does something in return, meanwhile, the second party has offered no promises in return, in this regard, a breach is not committed if the second party doesn’t comply or fails to complete the mentioned duty.

       It is equally expedient to consider whether a party is under any obligation whatsoever, for it is possible for a contract to contain a promise by one party, but fail to make clear exactly what has been promised in return by the other. In an English case of *Churchward v R,* a contractor a contractor agreed with the Admiralty that he would for 11 years carry from Dover to Calais such mail as he should from time to time be asked to carry by the Admiralty or the Postmaster-General. He was not given any mail to carry and claimed damages.

         One reason why his claim failed was that the agreement did not oblige the Admiralty to employ him: it only obliged him to carry mail if the Admiralty asked him to do so. The agreement thus resembled a tender by the contractor and amounted to no more than an offer, which might be accepted by the Admiralty from time to time. A document which in terms imposes an obligation on only one party may, indeed, by implication also oblige the other to do something which is not expressly stated.

      The court held that: “Where there is an engagement to manufacture some article [for a customer] a corresponding engagement on the other party is implied to take it, otherwise it would be impossible that the party bestowing his services could claim any remuneration.”

Defective performance- this factor rotates around self- contradiction. This means that a person who promises to do one thing does not perform if he does another. Such action amounts to breach, but the effects of such a breach often differ from those of complete failure or refusal to perform.

Incapacitating oneself- A person may break a contract by incapacitating himself from performing it. Thus a seller commits a breach of contract for the sale of a specific thing if he sells it to a third party.  For example, a seller of generic goods does not put himself in breach merely by telling the buyer that he will make delivery from a source which does not exist.

      He is normally entitled and bound to deliver from another source, and is in breach only if he fails or refuses to do so.

      On the forth going, it is crucial to add that there is no breach in contract when non- performance of a contract is justified by some legal excuse. Thus, there are guidelines to prevent committing breach in a contract. Such are:

Excuse provided by express provision- Excuses for non-performance may be provide by the contract itself, which may contain “exceptions” absolving a party from his duty to perform if he is prevented from doing so by  specified circumstances, such as strikes or similar delays. Failure to perform, if brought about by such events, is not a breach at all. The function of the “exception” is not to exclude liability for an assumed breach but rather to define the scope of the contracting party’s obligations.

Excuse must exist at the time performance is due- A party relying on an excuse for non-performance must show that the excuse existed at the time of his refusal to perform: it is not enough for him to show that it arose or would (if the other party had not discharged the contract on account of the refusal) have arisen at some later time.

The *Panchaud Frères case-* One controversial case goes further in holding that a buyer who failed to specify a defect in existence at the time of rejection could not later rely on it, even though the defect was one which the seller could not have cured and even though the seller did not in any way change his position in consequence of the buyer’s original failure to specify it. This is the Panchaud Frères case, where maize was sold under a contract which provided for shipment to be made in “June/July”. The goods were shipped in August and the buyers could have rejected them on this ground. But they paid against documents which would, if carefully examined, have revealed the fact of late shipment; and when the goods arrived the buyers rejected them for defects of quality. This was a bad ground as the goods were sound when shipped and the sellers were not responsible for their subsequent deterioration. The buyers claimed their money back, and, three years after their rejection of the goods, they relied for the first time on the fact of late shipment.

          Their claim failed, no doubt because the court was impressed by the possibly harsh consequences of allowing the buyers at such a late stage to rely on an originally unstated excuse for non-performance. To allow the buyers to do this would, it was said, be inconsistent with a “requirement of fair conduct.” But the vagueness of this requirement makes it virtually impossible to tell which cases will be governed by it and which by the general rule that a party can rely on an originally unstated excuse for non-performance. Hence other attempts have been made to explain the Panchaud Frères case. One suggestion is that the case was one of waiver (in the sense of election); but this was rejected in the case itself on the ground that the buyers did not know of the late shipment when they accepted the documents.

        Another view is that the buyers’ conduct gave rise to an estoppel or equitable estoppel. These doctrines, however, operate only if two requirements are satisfied: an unequivocal representation made by one party and reliance on it by the other.

       In one later case the argument based on estoppel accordingly failed on the ground that no such representation had been made; and in the *Panchaud Frères case,* even if the inference of a representation could be drawn from the buyers’ acceptance of the documents, it is hard to see in what way the sellers had relied on that  representation. They certainly lost no chance of curing the defect in their tender, for when that tender was made such a cure was no longer possible. Probably the safest explanation of the case is that the buyers had lost their right to reject by acceptance when they paid against documents which disclosed the fact of late shipment.

        It follows that the buyers could have relied on the fact of late shipment if they had rejected the documents, even though they had, at the time of such rejection, given an inadequate reason, or none at all.

                            Proceeding, there are instances where defence can be made by persons accused of causing a breach of contract. As in all lawsuits, the defendant—the party being sued—has a legal right to offer a reason why the alleged breach is not really a breach of contract or why the breach should be excused. In legal terms, this is called a defence. Common defences against a breach of contract include:

Fraud: This means “knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.&QUOT; When a defendant presents this defence, they're saying that the contract isn't valid because the plaintiff failed to disclose party had a power advantage over the other and that they used that advantage to force the other to sign the contract. Something important or because they made a false statement about material or important fact. The defendant must establish that the fraud was deliberate.

Duress: This occurs when one person compels another to sign a contract through physical force or other threats. This, too, can invalidate a contract because both parties did not sign from their own free will, which is a standard contractual prerequisite.

Undue influence: This is similar to duress. It means that one had a power advantage over the other and that they used that advantage to force the other to sign the contract.

Mistake: An error committed by the defendant can't invalidate a contract and take away a breach of contract case, but if the defendant can prove that both parties made a mistake about the subject matter, it might be enough to invalidate the contract and this would serve as a defence.

Statute of Limitations: Many types of cases have time limits imposed by law, deadlines by which a case must be brought and filed. A breach of contract case can be thrown out of court if the defendant can show that the statute of limitations has expired. The Statute of limitations case has a basis on time frames that are set by individual state law so they can vary. They average from three to six years for a written contract.

                   In conclusion, it should be stated that where the guilty party has repudiated the contract or has a right to rescind or terminate the contract. Rescission in this sense connotes that as a consequence of the guilty party’s breach, the innocent party is entitled to treat himself as discharged from further liability to perform his yet unperformed obligation. In the same vein, the guilty party is discharged of his remaining duties but remains liable for damages towards the innocent party.

Remedies for Breach of Contract

The plaintiff can be made whole in several ways if the other party is found to be in breach of a contract. In legal terms, this is called a remedy, and the most common remedy when one party is found to be in breach of a contract is a monetary payment.

Some other common remedies for a loss resulting from a breach of contract include damages and injunctions. Damages are amounts of money that compensate the victim for any actual loss he suffered. Punitive damages involve extra money a court might tack on as a form of punishment if the breach of contract was particularly egregious and intentional.

An injunction is an order by the court that requires the guilty party to stop doing whatever action is causing damage to the other.

A court might also order the rescission—the cancellation—of the contract. Sometimes the plaintiff has been so badly damaged by the breach that the injured party is allowed to rescind or terminate the deal. The remedies available for a contract breach include:

Monetary damages. The party who breached the contract can be held responsible for the losses caused by the breach.  Both general or expectation damages and consequential damages can result from a breach of a contract.  General or expectation damages refer to the loss directly caused by the breach. Consequential damages refer to losses that occurred because of the breach but that were an indirect cause.  For example, if you contracted and paid for a machine to be delivered and it never came, the general losses would include the value of the money you paid for the machine. The consequential losses could include the loss of business caused by the fact you did not have the machine you needed to do your work.

Specific performance. In some cases, the appropriate remedy for a breach of contract is to correct the breach by forcing the breaching party to complete the terms of the agreement. Specific performance is an appropriate remedy in situations where monetary damages could not possibly make the non-breaching party whole for the losses. For example, if there was a contract created for a buyer to purchase a very rare piece of art, the buyer could not simply find the art elsewhere. The only remedy that would help the buyer in this circumstance is for the court to require the sale to go through so the buyer got the unique one-of-a-kind painting that he contracted for.

Rescission. Rescission allows the non-breaching party to essentially be released from performance obligations. Recession is a remedy for a breach of contract because it makes clear that the party is relieved of his duties due to the failure of the other party to perform.

Liquidation damages. Sometimes, it is very difficult to determine how much a person was damaged by a breach of contract. To address this problem, some contracts contain liquidated damage clauses. Essentially, these clauses specify that the non-breaching party will be awarded a specific amount of money in the event a breach occurs. These clauses will be upheld as long as they are fair.