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CLASS TEST 2

QUESTION

Describe two scenario where force majure clauses can be applicable to contract in your discipline.

ANSWER

**Force majeure** is a common clause in contracts that essentially frees both parties from liability or obligation when an extraordinary event or circumstance beyond the control of the parties, such as a war, strike, riot, crime, epidemic or an event described by the legal term act of God, prevents one or both parties from fulfilling their obligations under the contract. In practice, most force majeure clauses do not excuse a party's non-performance entirely, but only suspend it for the duration of the force majeure.

**Force majeure** in any given situation is controlled by the law governing the contract, rather than general concepts of force majeure. The law of the contract often specified by a choice of law clause in the agreement, and if not is decided by a statute or principals of general law which apply to the contract. The first step to assess whether - and how - force majeure applies to any particular contract is to ascertain the law of the country which governs the contract.

**SCENARIOS FOR FORCE MAJEURE.**

If an avalanche destroys a power lines in the **BEDC,** causing long electricity distribution delays and leading the client to sue for damages. The supplier might employ a force majeure defense arguing that the avalanche was an unforeseeable, external, and irresistible event—the three tests applied by French law. Unless the contract specifically named an avalanche as removing the supplier's liability, the court may well decide that the supplier owes damages.

Also, if there’s a sudden earthquake at the **FAMZHI** factory in Delta State, causing a slowdown/sudden stop in production of electrical panels and distribution boxes leading to clients suing for damages or broken contracts. The supplier (FAMZHI) might employ a force majeure defense arguing that the earthquake was an unforeseeable and unpreventable event.