

Difference between void contracts and voidable contracts

Law



Differences between Void Contracts and Voidable Contracts I. D. of the

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Void Contract

In most simple terms, a void contract can be defined as: “ A contract having no legal force or binding effect” (Cross and Miller 2011, p. 752).

So a void contract is no contract at all. According to Schaffer, Agusti, and Earle (2008), there are four essential elements of a contract as per the common law requirements. First, mutual assent on the part of the contracting parties is necessary, and the contract has to be clearly worded. Second, it should be supported by a certain degree of consideration. Third, the parties must be legally capable of striking the contract. Fourth, the contract should not violate public policy and/or law. So if one (or more) of the above elements is found to be missing in a contract, then that contract is void.

Voidable Contract

Voidable contract is a form of valid contract where all the four essential elements of a contract are present. According to Cross and Miller (2011, p. 752), a voidable contract is a contract which might be “ legally avoided (canceled, or annulled) at the option of one of the parties.” In more generalized sense, the party/parties having the option to avoid the contract can avoid the contract altogether. Otherwise, they can also select which contractual duty is to be avoided. However, there is a process of ratification. If the contract is ratified by the contracting parties, then even a voidable contract will become strictly enforceable.

Differences

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There are key differences between void and voidable contracts.

Firstly, void contracts are themselves a category of contracts. But voidable contracts are a subcategory of valid contracts. Secondly, void contracts are no contracts at all. However, voidable contracts are strictly enforceable contracts once they are ratified by the contracting parties. Thirdly, a void contract can never have all the four essential contractual elements in it. For example, if the element of consideration be missing in a contract, then that contract can be deemed as a void contract. However, this is not the case with voidable contracts. A voidable contract has all the four essential contractual elements in it

Finally, examples of each category of contracts can help in showing the differences more explicitly. Some examples of void contract are given below:

1. Suppose, A and B sign a contract on dealership of cannabis. However, selling or buying cannabis is banned in the US. So this kind of contract is a void contract since it violates law. (Schaffer, Agusti, and Earle 2008)
2. Suppose, A and B sign a contract to build a resort on an island in an active delta area. After a few days, there is a flood and the island is completely submerged under sea. Then, the contract between A and B will become void since the object of the contract cannot be achieved anymore.

Some examples of voidable contract:

1. If one of the contracting parties be a minor, then generally that minor person has the option to avoid that contract.
2. Contracts struck under fraudulent conditions are voidable (Cross and Miller 2011)

References

Cross, F. and Miller, R. (2011). *The Legal Environment of Business*. Mason: Cengage

Schaffer, R., Agusti, F., and Earle, B. (2008). *International Business Law and Its Environment*. Mason: Cengage