

# Parol evidence rule



**ASSIGN  
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INTRODUCTION \* Parol evidence rule is rule of evidence which states that oral evidence is not regarded by the courts to contradict, vary, and add or reduce the term of contract that already finished by parties. The purpose is to make it certain. \* The rationale of this rule is that when the parties take trouble to decrease to writing the agreed terms of their contractual agreements, it was thought that the written contract will contain all relevant matters, and other aspects that not included of the written contract agreements should not be taken into account. Parol evidence rule occurs when all contracts is in writing. Oral evidence cannot be accepted by the courts to contradict, vary, and add or reduce the term that already finished by the parties. \* However, there are exceptions to parol evidence rule. BODY \* 7 exception to the parol evidence rule: 1. Exception is that custom or trade usage were allowed by court and it is part of the contract although it is not included in express terms “ to annex incidents to written contracts in matters with respect to which they are silent”.

This applies in commercial transaction. Case: Hutton v Warren 2. Exception was about the delay operation contract made ?? by an oral agreement to wait until an event occurs or known as condition precedent, where it was a condition that usually included in the contract to be fulfilled before the contract becomes operative. Case: Pym v Campbell 3. Exception was to confirm that the contract was not the whole contract. Case: Van den Esschert v Chappell 4.

Exception was when the language of the written contract was ambiguous, that made the agreement looked incomplete of explanation Case: Rankin v Scott Fell & Co (1904) 5. Exception was when there was an obvious mistake

in the contract, then the court may fix the contract in certain situations because the terms of the written contract may not actually stated what the parties have been resolved. Case: MacDonald v Shinko Australia Pty Ltd 6. Exception was applied when the identify of one party was unknown. Case: Giliberto v Kenny 7.

Exception was Collateral Contract as known as subsidiary contract, which is separated from the main contract, used to avoid the Parol Evidence Rule and accepted the validity of oral promises that have been made ?? during the negotiations that can add to or vary the terms in the original contract. Cases: De Lassalle v Guildford Hoyt's Pty Ltd v Spencer J. J. Savage and Sons Pty Ltd v Blakney CONCLUSION \* I agree with the statement that Australian court should not provide any solution for violation of any oral promises that were made during contract negotiations. \* Parol evidence rule must be clear, fully integrated, and unambiguous.