

# Potential contractual defects

Law



## Potential Contractual Defects (Add (Add (Add Potential Contractual Defects A

contract is a legally binding agreement between two or more persons. Such a contract cannot be violated at the interest of any one of the parties involved. Only with the consent of all the parties signed, a contract can be treated as void. If the contract is violated, the aggrieved party can sue the other in the court claiming damages for the time and money he invested in the task. Here in this given case scenario, we are left with two questions.

1. If Krauses can avoid the contract he has entered into with Jud Wheeler for the sale of ten acres of land on the ground the price offered by Jud Wheeler is much lesser than the market value?
2. If Jud offered the Krauses one price and inadvertently typed a different, higher price into the contract, can Jud be held to the typewritten amount?

Answer to the first question is simple; Krauses cannot avoid the contract arguing that the consideration is inadequate. For, there is a provision in the Contract Act 'consideration need not be adequate'. To be clearer, Section 79 of the Second Restatement (as cited in Klass, 2010, pp. 74-75) puts it; there is no requirement of equivalences in the values exchanged. As no court is interested in inquiring the adequacy of consideration, it is deemed that it will be sufficient to support the exchange.

The general rule of law is that if the payment is too little for the consideration from the part of the other, the former does not satisfy the requirements of a consideration. If in the given case, the agreed amount is too meager, Krauses can bring it to the notice of the court. As there is no information disclosed regarding the market price and the agreed price, let us conclude that there is no option to avoid the contract and both parties have to play their respective role in the contract.

In the second instance, what has happened is a unilateral mistake. In the case of unilateral mistakes, it is unlikely that it happens while drafting a contractual agreement. However, the severity of the mistake depends on the person who has done it. If it is the person who initiated the contract done mistake while drafting, he will be held liable. Here, if Jud was the one to initiate the contract, he will be held to the typewritten amount. For, it is while making the agreement that he committed the mistake. Though it was quite unintentional, he will have to pay the said amount as the written agreement is the sole evidence for the contract between the duos. He should have paid utmost care and attention while drafting the agreement and it is evident that the mistake has happened due to his carelessness. If such a mistake had come to the notice of Jud before signing it, he should have rectified it. As stated, “ if either party knew of the mistake in the fundamental assumptions at the time of drafting, and that party did not correct that mistake, then there is no real mistake” (Rosen, 2000, p. 18. 61). By signing the agreement, he declared that such an agreement has been drawn with his full knowledge and consent. Therefore, he himself is the sole responsible person for the mistake committed and cannot relieve him from the liability of paying the amount mentioned in the agreement though it is greater than the amount they agreed upon by words. If such a mistake was committed by Krauses, Jud would have an option to argue that Krauses intended to deceive him. Here the case is different and Krauses is innocent.

Hence, the only possible way to relieve from responsibility of paying the higher amount is to carry out a negotiation for the mistake done unintentionally and draft a new agreement.

#### References

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Klass, G. (2010). Contract Law in the USA. Netherlands: Kluwer Law International.

Rosen, R. A. (2000). Settlement Agreements in Commercial Disputes: Negotiating, Drafting & Enforcement. USA: Aspen Publishers Online.