

CONSIDERATION (quid proquo)

- Consideration means something in return. An agreement must have a flow of material benefit from both the sides.
- An agreement not supported by consideration is called *Nudum pactum* (bare agreement)

According to **sec.2 (d)** of the Indian Contract Act "when at the desire of the promisor, the promisee or any other person has done or abstained from doing, or promises to do or to abstain from doing something, such act, abstinence or promise is called a consideration for the promise".

Essentials of a consideration

- Consideration must move at the desire of the promisor

an act or abstinence done at the desire of a person other than the promisor is no consideration.

a gratuitous service rendered by the promisee without any request of the promisor is not a consideration enforceable at law

- Consideration may move from promisee or any other person- if moved from a third party it is called 'constructive consideration'
- Consideration may be past, present or future
- Consideration need not be adequate
- Consideration must be real and not illusory i.e. Possible and certain

- Consideration must be lawful. It is unlawful if it is
 - 1) forbidden by law or
 - 2) if permitted would defeat any provisions of any law or
 - 3) if it is fraudulent or
 - 4) it involves or implies injury to the person or property of another or
 - 5) it is regarded by court as criminal or against public policy.

- It must be something which the promisor is not already bound to do either by general law or by existing contract.
- if the law compels a person to do an act , the mere doing of that act cannot become consideration of another promise.

Different kinds of Consideration

- Executed Consideration: when the consideration is given simultaneously with promise.
- Executory Consideration: when it is to be done in future
- Past Consideration: when it is already done before making an agreement but not in response to a promise.

