

CONSIDERATION

The issue is whether valid consideration has been provided.

Consideration is an exchange of value that must be given in exchange for a promise. It may consist of profits, forbearance or responsibility accrued to parties and is necessary to render a contract enforceable (*Currie*). Two elements must exist for valid consideration; a benefit or detriment and the quid pro quo/bargain requirement (*Australian Woollen Mills*). Additionally, the consideration provided by the promisee must be sufficient in the eyes of the law (*Woolworths v Kelly*).

BENEFIT/DETRIMENT

Both parties must have received a benefit or suffered a detriment during the exchange of value. Here, STATE PARTY 1'S BENEFIT. PARTY 1 accrues the benefit of STATE BENEFIT and suffers the detriment of STATE DETRIMENT. Conversely, STATE PARTY 2'S BENEFIT AND DETRIMENT.

The element is satisfied/not satisfied as a benefit or detriment has been suffered by both parties.

QUID PRO QUO/BARGAIN

The benefit or detriment must be given in return for the promise. The provided consideration must be performed and exchanged as the agreed price of the promise (*Australian Woollen Mills*). Here, STATE HOW PARTY A PROVIDED CONSIDERATION AND WHAT THEY RECEIVED. A clear bargain element is present as PARTY A'S CONSIDERATION is exchanged for PARTY B'S. This is reinforced through a direct, intended connection between the promise of ITEM 1 AND ITEM 2 relied upon as consideration (*Australian Woollen Mills*). Therefore, the element is satisfied as the benefit/detriment received and suffered by both parties was exchanged for the initial promise.

GIVE MORE INFORMATION - DID ONE PARTY FAIL TO PROVIDE CONSIDERATION AT ONE POINT?

- IF SO, STATE → PART NAME failed to perform its promised obligations.

SUFFICIENCY OF CONSIDERATION

Good consideration must be sufficient to be valid. Sufficiency is satisfied if the items exchanged are considered of value by the law (*Woolworths v Kelly*).

APPLY PRINCIPLES BELOW IF APPLICABLE

Here, STATE WHAT PARTY A PROVIDED in exchange for WHAT PARTY B PROVIDED. PARTY A AND B'S consideration is sufficient as they are identifiable items of value being exchanged.

DISCRETION AS TO PERFORMANCE

However, a promise will not constitute good consideration if the promisor retains an unfettered discretion as to performance (*Placer Development v Commonwealth*).

PAST CONSIDERATION

However, past consideration refers to an act or service performed before a contractual promise was made. This is invalid as the action was not done in exchange for the promise (Roscorla v Thomas).

EXCEPTION: PROMISE TO PAY FOR PAST SERVICES

However, an exception to the past consideration rule exists where a promise is made to provide payment for past services. The performance of the services requested by the promisor will constitute good consideration for the subsequent promise to pay for them (Re Casey's Patents; Steward v Casey).

ILLUSORY CONSIDERATION

However, a statement that appears to be a promise in a contract but imposes no real, binding obligation on the promisors renders it unenforceable as the offeror's promise exists in form only.

PRE-EXISTING LEGAL DUTY

However, a promisee that is already contractually bound by the promisor cannot provide/perform an existing contractual obligation as good consideration (Stilk v Myrick).

EXCEPTION: PRACTICAL/FINANCIAL BENEFIT

However, an exception applies where an offeror gains a financial benefit. Williams v Roffey Bros states that where a party promises payment to secure a practical benefit in an ongoing relationship, the promise is supported by valid consideration.

EXCEPTION: BONA FIDE COMPROMISE

However, a party's promise to perform or to continue with one's contractual obligation can amount to good consideration if it is part of a bona fide compromise (Wigan v Edwards).

PART PAYMENT OF A DEBT

However, part payment of a debt is not good consideration for the creditor's promise to forgo the balance as the promisee is only performing their existing contractual duty owed to the promisor (Foakes v Beer).

CONCLUSION

Therefore, valid consideration exists. Additionally, HAS BOTH PARTIES PROVIDED CONTINUED CONSIDERATION?