

A & S LAW WEEKLY

*WEEKLY LEARNING
SERIES*



A & S LAW WEEKLY
Week - 26
**Specific performance of
Contracts**



WWW.ASLAWONLINE.COM

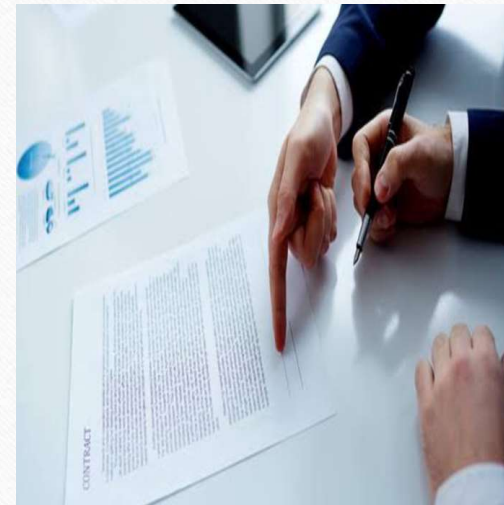
S.NO	NAME OF THE SECTION	SLIDE NUMBER
1.	Section 10- Specific Performance In Respect Of Contract	4
2.	Section 11 – Specific Performance of Contract connected with trust	5
3.	Section 12 – Specific Performance of part of a Contract	6 & 7
4.	Section 13 – Rights of a Purchaser / Lessee against the person with No Title or Imperfect Title	8 & 9
5.	Section 14 – Contracts that cannot be specifically enforceable	10
6.	Section 15 – Persons eligible to obtain Specific Performance under this Act	11
7.	Section 16 – Personal Bars to seek relief	12
8.	Section 17 - Contract To Sell Or Let Property By One Who Has No Title, Not Specifically Enforceable	13
9.	S.18 - Non-enforcement Except With Variation	14
10.	S.19 - Relief Against Parties And Persons Claiming Under Them By Subsequent Title	15 & 16

SPECIFIC PERFORMANCE IN RESPECT OF CONTRACTS



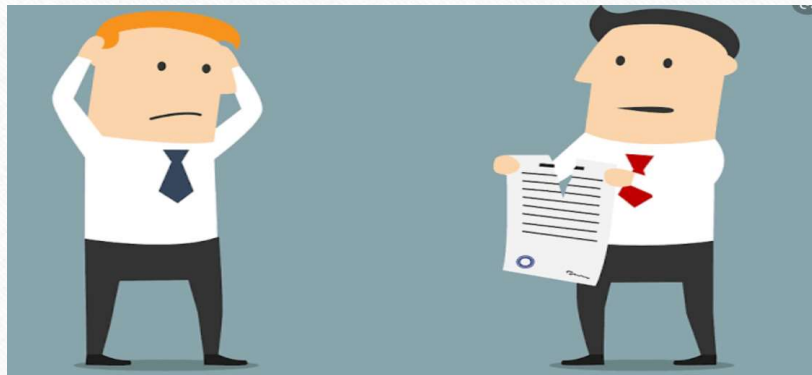
SECTION - 10

The Specific Performance of a contract should be enforced by Court Subjected to Section 11(2), Section 14 and Section 16 .



SECTION 11
SPECIFIC
PERFORMANCE OF CONTRACT CONNECTED WITH TRUST

- ✓ Any contract made by a trustee in excess of powers or in breach of trust cannot be enforced.



SECTION 12

SPECIFIC PERFORMANCE OF PART OF A CONTRACT



(1) When a party to contract is unable to perform the whole or part but the part of which is left unperformed be only a small portion to the whole in value or admits of compensation in money, the court may direct the specific performance or the award Compensation in money for deficiency.

(2) When party to contract is unable to Perform the whole or part which must be left unperformed, Either formed considerable part or whole or doesn't admit compensation in money, The party is not entitled to get a decree for specific performance but court might direct the party in default , To perform specifically

CONTD...

- (3) When the Party has paid the agreed consideration for the whole of contract reduced by consideration for the part which must be left unperformed .
Paid the consideration for the whole for the whole of the contract without any abatement.
Either case relinquishes all claims to the performance of the contract which is remained in the part of the contract and the rights to compensation sustained by the party through the default of defendant.
- (4) When a part of contract which is taken by itself or performed specifically , stands independently from another part of the same contract or ought not to be specifically performed , Court might direct the specific performance of the previous part .

SECTION 13



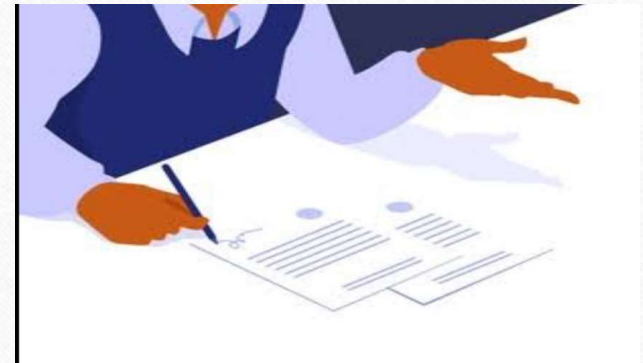
RIGHTS OF A PURCHASER/LESSEE AGAINST THE PERSON WITH NO TITLE OR IMPERFECT TITLE

If the vendor/ Lessor has subsequently to the contract has acquired any interest in the property with no title ,then the purchaser may,

- a) purchaser or lessee May compel to make good contract out of it
- b)compel to procure the concurrence and when the conveyance by other person is necessary to validate and
- c) compel to procure the conveyance.
- d)When the vendor professes to sell the unencumbered property but the property is mortgaged for an amount not exceeding the purchase money, then the vendor can only redeem it.

CONTD...

Where the lender dues for specific performance of contract then the suit is dismissed on the grounds of imperfect title , defendant has the right to return his deposit with interest , for the costs of suit, if the vendor/ lesser is subject matter of contract.



SECTION 14 of SPECIFIC RELIEF ACT

Section 14 of specific relief act talks about those contracts that cannot be specifically enforceable.

There are a few contracts that the court cannot specially enforce. They are -

- A contract in which compensation would be the adequate relief for non performance
- A contract having minute or numerous details and which is so dependent on personal qualifications
- A Contract which is in nature determinable
- A contract involving a continuous duty, for eg. Employment Contracts

SECTION 15 OF SPECIFIC RELIEF ACT

Section 15 talks about the persons who may obtain specific performance under this act

- Any party or his representative possessing learning and skill in the contract
- In a contract for settlement of marriage, the person who is beneficially entitled to such contract
- If the contract has been entered by a tenant for life, then the remainder man can obtain specific performance
- A reversioner in possession where agreement is a covenant entered with its predecessor
- A reversioner in remainder where such agreement is a covenant and the reversioner will sustain the material injury by its breach.
- When a company enters into a contract and gets amalgamated subsequently, the new company shall obtain specific performance
- When promoters of the company enter into a contract for the company before incorporation, the company may obtain specific performance

Section 16 of Specific Relief Act

Section 16 talks about personal bars to relief.

Specific Relief will be barred for persons who -

- Would not be entitled to compensation
- Who has become incapable of performing or violates an essential term of the contract
- Who fails to aver and prove that he has performed and ready and willing to perform the contract.



S.17 - CONTRACT TO SELL OR LET PROPERTY BY ONE WHO HAS NO TITLE, NOT SPECIFICALLY ENFORCEABLE



- A contract to *sell* or *let* any *immovable property* cannot be specifically enforced in favour of a vendor / lessor –
 - a) Who *purposely* has entered into a contract while being *fully aware* that he / she *does not to have any title* to the property.
 - b) Who entered into the contract *believing that he had a good title* to the property, *cannot sell* or *let* the same *free from reasonable doubt*.
- This shall also apply to contracts for the sale / hire of movable property.

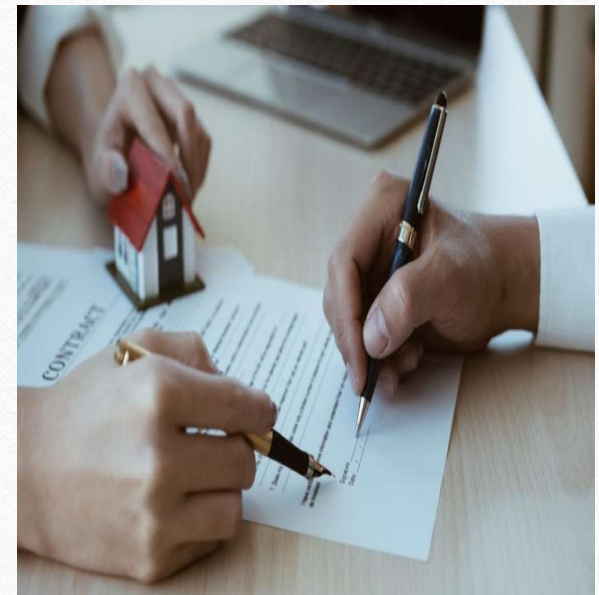


S.18 - NON-ENFORCEMENT EXCEPT WITH VARIATION



Where a plaintiff seeks specific performance of a contract in writing for which if the defendant sets up a variation, then the plaintiff cannot obtain the sought out performance except with the variation so set up in the following cases namely :

- (a) When the *written contract of which performance is sought* has *terms / effect different from what the parties agreed to* (or) *does not contain all the terms agreed to* and entered into the contact, *but only by way of fraud / mistake of fact / mis-representation.*
- (b) When the *object of the parties* was to produce *a certain legal result*, yet the *framed contract* is *not calculated* for the same
- (c) Subsequently, when the *parties have varied its terms to the execution of the contract.*



S.19 - RELIEF AGAINST PARTIES AND PERSONS CLAIMING UNDER THEM BY SUBSEQUENT TITLE



Specific performance of a contract may be enforced against:

- (a) *Either of the party involved*
- (b) Any person claiming title subsequently *except*, a transferee *who has paid his money in good faith* but *without notice of the original contract*.
- (c) Any person claiming title though *prior to the contract and known to the plaintiff might have been displaced by the defendant*.



S.19 - RELIEF AGAINST PARTIES AND PERSONS CLAIMING UNDER THEM BY SUBSEQUENT TITLE (Contd.)



Specific performance of a contract may be enforced against:

(d) When *a company has entered into a contract* and *subsequently becomes amalgamated* with another company, then *the new company* which arised out of such amalgamation.

(e) When the *promoters had entered* into a contract *before the incorporation of a company for its good sake* and the same is *warranted* by the terms, *unless it has been accepted and properly communicated to the other party* by the Company.



Our Telegram channel link
for legal updates

<https://t.me/aslawonline>

