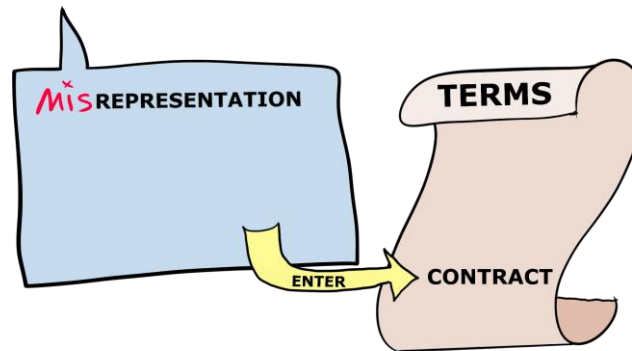


(6) CONTRACT: VITIATING FACTORS

❑ Effect of vitiating factors

❑ Misrepresentation

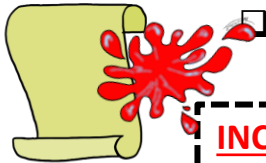
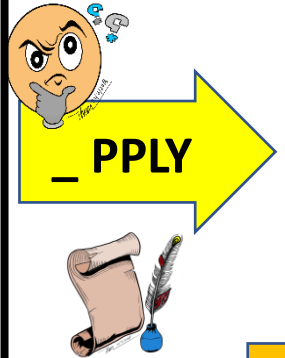
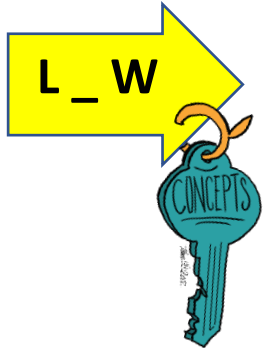


❑ Incapacity



Copyright © Thum Cheng Cheong, 2021

L06A: L.A.C. Visual Map



Definition of Vitiating Factor

1

INCAPACITY to contract

- ☐ MINOR: 18

2

RULE

- x Contract VOID
- x Cannot be sued

3

- x Nash v Inman

- x Terms unreasonable, not beneficial, contract unenforceable
- x De Francesco v Barnum

EXCEPTION

- ☐ Contract VALID
- ☐ Minor bound by contract

4

(a) Contracts for NECESSARIES

- ☐ Minor's station in life & requirements
- ☐ Peters v Flemings

5

(b) Beneficial contracts

- ☐ Minor's health, education & welfare
- ☐ Chaplin v Leslie Frewin Publishers

F_CTS:

- ☐ WH_
- ☐ WH_T
- ☐ WH_N
- ☐ WH_R_
- ☐ H_W

M.C.A.

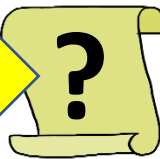


(c) Voidable Contracts

- ☐ Minor repudiate contract before attaining majority i.e. lease, partnerships

(d) Ratifiable Contracts

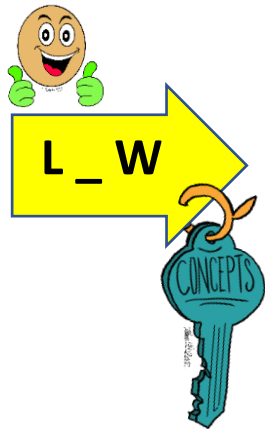
- ☐ Contract not binding unless minor ratifies soon after attaining majority i.e. Good that are not necessities.



2

Copyright © Thum Cheng Cheong, 2021

L06B: L.A.C. Visual Map



Definition of
Vitiating Factor

1

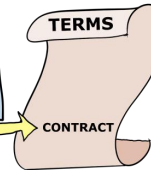
MISREPRESENTATION: 3 elements

☐ **FALSE** statement of **FACT**

2

☐ **INDUCED** into contract

☐ **RELIANCE** on statement

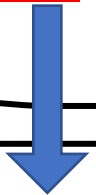


4

CONTRACT is VOIDABLE

☐ Innocent party may **RESCIND** contract

☐ Claim **DAMAGES**



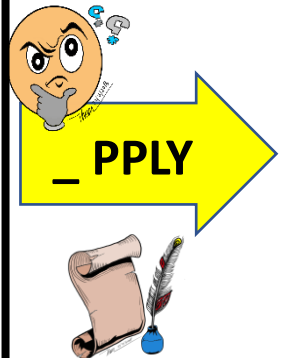
BARS to RESCISSION

☐ Contract affirmed

☐ Reasonable time elapsed

☐ Third party interest

5



F_CTS:

- ☐ WH_
- ☐ WH_T
- ☐ WH_N
- ☐ WH_R_
- ☐ H_W

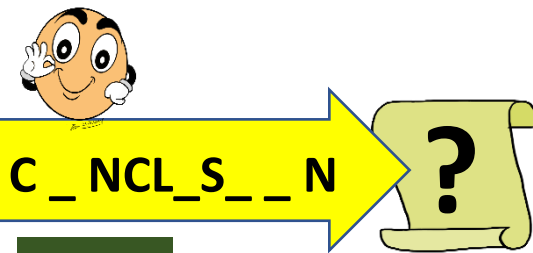
MISREPRESENTATION: types

3

☐ **FRAUDULENT.** Know statement is untrue

☐ **NEGLIGENT.** Made statement with due care (carelessly)

☐ **INNOCENT.** No fraud / fault



3

Copyright © Thum Cheng Cheong, 2021

Definition of vitiating factor.

1

- Factor which makes a contract **invalid**.
- **Void. Nullity** from very start (void ab initio).
Remedy: **Restitution**.
- **Voidable**. Innocent party **avoids / rescinds** contract.
- **Incapacity, misrepresentation**, duress & undue influence, mistake, illegality.
- **Restitution**: **property** is **given back** to original owner and **money returned** to buyer.
- **Voidable contract** **valid** so long as innocent party does **not rescind** it.

Copyright © 2020 by Thum Cheng Cheong

(A) Capacity to contract.

- Party to a contract must have capacity to contract.

Rule on Minor. Contract void regards minor.

- Most situations: age of majority is 18 i.e. has the capacity to contract
- Age of majority is 21 in
 - Contract for sale, purchase, mortgage, ... of land.
 - Contract for lease of land for more than 3 years.
 - Contract whereby minor's beneficial interest under a trust is sold
- **Minor:** can sue but cannot be sued by adult i.e. contract is **void** as regards the **minor**.

**Exceptions. Minor bound by contract.**

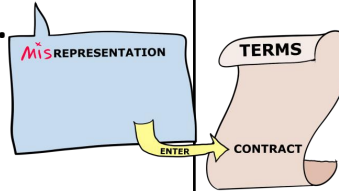
- Contracts for necessaries. Minor's **station in life** and **requirements**.
Peters v Fleming: Yes. Minor to pay
Nash v Inman: No. Minor not liable to pay
- Beneficial contracts for minor's **health, education and welfare**.
Chaplin v Leslie Frewin Publishers: Yes, beneficial, minor earn money.
De Francesco v Barnum: Not beneficial, terms unreasonable & not beneficial to minor. Contract unenforceable against minor. (NOTE: identify the such terms)
- Voidable contracts. Minor entitled to repudiate contract before reaching 18 or soon after attaining majority. Examples: Lease, partnership, purchase of shares.
- Ratifiable contracts. Any other type of contracts.



(A) Misrepresentation.

(i) DEFINITION.

- Representation. Statement made during **negotiations** which induces another party to enter into the contract.



- Misrepresentation. Definition:

- 1) False statement of fact. Not opinion or intention.
- 2) Induced into contract. Material representation.
- 3) Reliance on statement.

(ii) TYPES of misrepresentations

- a. Fraudulent. Made **knowingly** or reckless whether true or not. [*Pantron v Lee Cheow Lee*]
- b. Negligent. Made **without due care**. [*Howard Marine v Ogden*]
- c. Innocent. Made **without fraud** and without **fault**.
Claim indemnity.



(iii) EFFECT of misrepresentation

- i. Contract is voidable. Innocent party entitled to rescind contract.
- ii. Claim damages for fraudulent and negligent misrepresentations.

Bars to rescission. Contract affirmed, reasonable time elapsed, third party interest,..