

B. Com. Sem. III

Subject - Business Law

Topic - Free Consent (Part-4)

Fraud

Fraud is a willful representation made by a party to a contract with an intention to cheat. In other words, fraud is the act of deliberate, deception or cheating to gain an unlawful advantage, cause loss to another or deny a right.

According to Sec. 17 - Fraud means and includes any of the following acts committed by a party to a contract or with the connivance or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract.

1. The suggestion as a fact, of ~~what~~ that which is not true, by one who does not believe it to be true.
2. The active concealment of a fact by one having knowledge or belief of the fact.
3. A promise made without any intention of performing it.
4. Any other act committed to deceive.

5. Any such act or omission as the law specially declares to be fraudulent,

Characteristics of fraud

On the basis of above meaning and definition, following are the main characteristics or elements of fraud —

1. The representation must be false or assertion of fact.
2. The misrepresentation must have been made knowingly.
3. To constitute fraud false representation must have been executed by the party to the contract or with his connivance or by his agent.
4. The intention of misstating the facts must be to induce other party to enter into a contract, if this is not so, then there is no fraud.
5. For fraud to exist, damages must be due to fraud, there is no fraud without damages.

6. Any such act or omission which the law specially declares to be fraudulent,
7. Sec. 17 of the Act says that silence is not ~~condi~~ considered fraud, even if it influences the mind of a person. But there are the following exceptions —
 - a. Mere silence is not fraud.
 - b. Silence is fraud if there is duty to speak.
 - c. Silence is fraud if silence is equivalent to speech,

— x —