

I'm not a robot















## Invitation to treat contract law malaysia

The objective of this assignment is to outline the roles and responsibilities of four parties involved in a business transaction, governed by the Malaysian Contracts Act 1950. This analysis examines the essential elements of contracts, exploring their application in various scenarios. The key parties include Itua, a businessman seeking to expand his operations; Baju Murah (BM), a costumes supplier; Baju Lagi Murah (BLM), another costumes supplier; and Wong, a potential competitor. Itua had intended to purchase costumes from BM and BLM but was advised by a lawyer that a contractual relationship requires the presence of certain elements. These elements include an offer, acceptance, intention to create legal relations, consideration, certainty, and capacity. In Malaysia, these elements are governed by the Malaysian Contracts Act 1950. To form a binding contract, an offer must be clear and identifiable, whereas an invitation to treat is merely an expression of interest. Acceptance must also be absolute, final, and unqualified. Furthermore, acceptance can be revoked within a reasonable time or otherwise, depending on the circumstances. A valid contract must be addressed to the correct person and acknowledged by them to complete the cancellation process as stated in Section 6 (a) of CA 1950. Furthermore, the postal rule established in *Ignatius vs. Bell* applies only if both parties agree to use a written method for forming a legal agreement and if the mail is posted through a recognized post office and delivered to the recipient. In contracts, intention to create legal relations is an essential element, although it is not compulsory in Malaysia as stated in *Guha Majumder vs. Donogh*. However, in such cases, there is a lack of intention, and no legal relationships are formed. A contract without consideration is void according to Section 26 of CA 1950. Consideration must be given to the promisee to have alternative choices and not feel bound by an obligation from the beginning of the agreement. Certainty is another crucial element of contracts, requiring a lawful consideration with a specific, exact, and unqualified object to form a legally bounded contract. The capacity of a person is also essential, implying they are an adult who is physically and mentally fit and ready to be bound by any law. It is apparent that for a contract to be valid under CA (Contract Act) laws in Malaysia, both parties must engage in mutual communication and understanding. However, in the given scenario, Itua's actions do not satisfy these requirements. The classification of Itua and Wong as having a unilateral relationship indicates that there was no bilateral formation between them. Furthermore, the absence of any form of communication or interaction with Wong suggests that they are merely competitors, rather than being engaged in a contractual relationship. Upon analyzing the facts, it is evident that Itua sent a fax to BM expressing his interest in purchasing their collection of costumes for RM5000.00. This action signifies the first element of contract formation - offer. However, an examination of the statement reveals that it was merely an invitation to treat, indicating that Itua was willing to make an offer within certain price parameters. Therefore, this cannot be considered a valid offer under Section 2 (a) & (b) of CA 1950. The second element of contract formation - acceptance - is also absent in this scenario. Since BM did not respond or accept the invitation to treat immediately after receiving Itua's fax, they failed to fulfill the requirements outlined in Section 7 (a) of CA 1950 for a valid contractual agreement. Consequently, Itua is advised that his actions do not meet the necessary conditions for contract formation. Furthermore, when Itua later revoked his interest in purchasing the costumes by slipping a note under BM's door, this action did not involve any postal rule requirements, as defined in Section 4 of CA 1950. Nevertheless, since no valid offer or acceptance had been made from the outset, the revocation does not affect the existing lack of contractual relationship between Itua and Wong. In summary, based on the facts presented, it appears that neither party has fulfilled their obligations for contract formation, resulting in a unilateral relationship between Itua and BM, with no binding contractual agreement established. Itua received a voicemail from BM saying they accept his offer to purchase costumes for RM5000.00 and will deliver them on Friday. However, this statement can be interpreted as an offer rather than acceptance due to the casual tone of the message. A conversation without clear intent can lead to misunderstandings. According to [B.T.H. Lee] page 81 of textbook, it's challenging to determine if parties are willing to enter into a contract based on a casual conversation. In this case, Itua's voicemail is likely an acceptance in the eyes of BM, but its interpretation depends on context. A key point in Section 4 (3B) of CA 1950 is that revocation occurs when the offeree gains knowledge of it. In this scenario, Sunil revealed his intention to BM before Itua did, leading BM to proceed with the business despite revocation being possible. This case illustrates third-party rules from [Bernard books about third party]. Itua does not have a contractual relationship with BM due to insufficient elements of contract satisfaction. Itua visited another costume collection by BLM and made an offer to Sylvester, saying he'd pay RM3000.00 for the costumes on the following Monday. However, Sylvester's reply indicates that his acceptance is conditional upon consulting his Board of Directors. Since Sylvester altered Itua's original offer, Section 7 (a) & (b) of CA 1950 requires absolute and unqualified acceptance. Moreover, when Itua made a second offer to pay for the costumes delivered, he waited for confirmation from BLM before proceeding. This suggests that there was no formal acceptance made by BLM, but rather an offer subject to consideration due to Sylvester's ongoing discussion with his Board of Directors. Section 8 of CA 1950 states that performance of a proposal or acceptance of consideration amounts to an acceptance of the proposal. Without this confirmation, the offer and acceptance process did not occur. Contractual disputes in Itua vs BLM: analysis of revocation and acceptance principles. Itua's decision to withdraw from the contract by posting a note was deemed invalid due to the lack of agreement on postal rule application. However, BLM's acceptance of Itua's offer was established despite Itua not fulfilling his request for costume delivery. The Contract Law states that acceptance is only valid if made during official office hours with registered mail. Section 7 (b) of CA 1950 highlights the importance of communicating the original agreed-upon method of acceptance to avoid voiding the contract. Section 5 (2) also notes that revocation can occur before acceptance is completed, which supports Itua's claim. Therefore, Itua is not obligated to BLM and no contractual relationship has been established. The analyzed cases demonstrate the importance of revocation in preventing unjustifiable relationships between parties. The jurisdictions discussed suggest limited grounds for damages in this scenario, supporting Itua's position. The Assignment Analysis and Contract Parties Involved This assignment outlines the involvement of four parties in a potential business deal, with Itua as the main actor. The scenario involves Itua's intention to purchase costumes from two suppliers (BM and BLM) while also being approached by Wong, a potential competitor. In Malaysia, contracts are governed by the Contracts Act 1950 (CA 1950). For a valid contract to be formed between two parties, it must satisfy essential elements, namely Offer, Acceptance of Offer, Intention to Create Legal Relations, Consideration, Certainty, and Capacity. An offer is an expression of willingness to enter into a binding contract under specific terms, as stated in Section 2 of CA 1950. To be considered an offer, it must be clearly identified and not just an invitation to treat. Acceptance of the offer must be present, absolute, final, and unqualified. If there's a counter-offer made, acceptance can revoke the initial offer within a reasonable time, as stated in Section 7(b) of CA 1950. The postal rule applies if parties agree on using written methods for legal agreements, such as sending registered mail through post offices. However, this rule is void otherwise. Another crucial element is Intention to Create Legal Relations; although it's not compulsory in Malaysia, its absence can indicate a lack of intention and no legal relationship is formed. Consideration is also vital, as an agreement without consideration is considered void, as stated in Section 26 of CA 1950. The concept of contracts and their elements, particularly clarity, certainty, capacity, advice, unilateral relationships, and offer, are crucial in understanding contractual obligations. According to Section 2(d) of CA 1950, a promisee should have alternative choices or abstain from it, ensuring they are not bound by an obligation at the beginning of the agreement. Certainty is another vital element, as it requires a lawful consideration and object to convert an agreement into a contract. This certainty must be specific, exact, and unqualified at first point to form a legally bound contract. Capacity refers to a person's ability to enter into contracts, implying they are adults, physically and mentally fit, and subject to any relevant laws. Given article text here Itua made an invitation to treat for buying costumes at BM, specifying the highest promise he would pay RM5000.00. However, Itua's fax did not constitute a valid offer due to its failure to meet the first element of contract, namely, being absolute and unqualified consent from the promisor. BM failed to accept Itua's offer immediately, as required by Section 7 (a) of CA 1950. Itua later revoked his interest in buying costumes after Sunil informed the manager at BM about it. However, this revocation did not occur before BM made a voicemail offering to purchase the costumes for RM5000.00, which can be seen as an acceptance of Itua's original offer. The situation also involves third-party rules, as Sunil informed Itua and BM separately about his intention to revoke the business relationship. In this case involving Business and Leadership Management (BLM), Itua made an initial offer to Sylvester, the manager, to purchase their costume collection for RM3000.00 with a promised delivery on Monday. However, Sylvester requested to check with his Board of Directors before making any decisions. This alteration of Itua's original offer led to the acceptance being absolute and unqualified, as per Section 7 (a) & (b) of the CA 1950. Itua then made a second offer to pay for delivery, but Sylvester remained silent, awaiting further confirmation from his Board. This indicated that there was no clear acceptance of Itua's original offer, with acceptance being subject to consideration. The contract law in Section 8 of CA 1950 highlights that performance or acceptance of consideration is an acceptance of the proposal. As Itua soon discovered that Wong was entering the costume hire business and potentially outdoing his own plans, he quickly dropped a note stating that he no longer wanted to purchase the costumes. However, due to the lack of agreement on postal rules between parties, this revocation attempt had no effect. The next day, BLM accepted Itua's original offer via fax but insisted on Itua arranging delivery himself. This established acceptance from BLM, but also raised arguable questions about their failure to fulfill Itua's initial request for delivery. In the event that an offer is not accepted in the initial manner specified by the offerer, they may, within a reasonable timeframe, communicate with the offeree to accept the offer as originally prescribed. If the offeree refuses to proceed, the agreement shall be rendered void. Additionally, revocation can occur prior to acceptance being finalized. Itua possesses the right of revocation due to insufficient elements of contract having been satisfied by BLM. Consequently, Itua is not obligated to any legal responsibility with BLM and no contractual relationship has been established. The principles discussed above lead to the conclusion that Wong, BM, and BLM are incapable of forming a legal contractual relationship with Itua. Source: Business News July 5 accessed July 17, 2009 Sumeet et al. investigated the effectiveness of anti-dumping laws in protecting Indian industries, specifically the Vitamin C sector Sumeet G., M. Nisha and M. Shavin 2005 Extent of Protection via Anti-dumping Law: A Case Study of the Vitamin C Industry in India Journal of World Trade 39 no.5 October 1 925-936 accessed July 20, 2009 Xu et al. analyzed the impact of tariff reductions on employment in China using a computable general equilibrium model D. Xu and G. H. Chang 2000 Impact Of Tariff Reduction On Structural Employment In China: A Computable General Equilibrium Analysis Pacific Economic Review 5 no. 2 157 Business Source Premier EBSCOhost accessed July 17, 2009 Essential Elements of a Contract in Malaysia A contract is a legally binding agreement that can be difficult to establish whether the basic requirements exist The formation of a contract is governed by the law which would be the proper law if the contract was validly concluded Dicey and Morris noted in Malaysia the essential elements are Offer Acceptance Intention to create legal relations and Consideration Offer A contract requires an offer made by one party to another An offeror proposes terms with the intention of creating a binding contract if accepted The offeree accepts these terms agreeing to be legally bound This acceptance forms a contract as it is a legally binding agreement Neither an offer nor acceptance should be made without a willingness to accept legal consequences Invitation to treat is not an offer but rather an invitation to make one A response to an invitation cannot result in a binding contract A court decides whether an offer has been made by considering the intentions of both parties and all circumstances involved Advertisements can amount to either offers or invitations to treat If it's an offer acceptance creates a contract while if it's only an invitation to treat no contract is formed Unilateral contracts involve one party making a promise in exchange for an act or abstention by another The offeror is obligated to fulfill the contract but the offeree cannot be forced to act Has been made only one legally binding promise - that of the party offering something. This type of contract differs from a bilateral contract where both parties exchange promises. In business transactions, such as buying goods, bilateral contracts are commonly used. Reward offers are usually unilateral contracts, meaning the person offering the reward cannot force someone to fulfill it. If the offeror doesn't provide the promised reward after the requirements have been met, an offeree can take them to court. When customers buy goods in shops, they make a contract to purchase those items. However, displaying goods in a shop window is simply inviting potential buyers to make an offer, not making one themselves. Acceptance of an offer means that the person receiving it has indicated their agreement to the terms. This acceptance must be clear and unambiguous, with no conditions attached. The acceptance should also be made before the offer expires, as most offers have a time limit within which they can be accepted. If there is no time limit, the law requires the offer to remain open for a reasonable period. What constitutes a "reasonable" amount of time will depend on the specific circumstances of each case. An offer can only be accepted before it's withdrawn, unless one of the terms states that it remains open until a specified time. In some cases, the courts may impose a term requiring the offer to remain open for acceptance for a reasonable period. Unilateral contracts are usually accepted through actions rather than words. For example, if someone promises to pay RM30 for cleaning their room, they won't be entitled to the money until the job is complete. The acceptance must also be unconditional and accept the exact terms of the offer. When forming a contract online, there are two main ways: exchanging emails or buying goods/services through a website. However, as there have been no significant court decisions on this topic, it's unclear exactly when an online contract is formed. Once an offer has been accepted, a contract is created, but offers can terminate in various ways and once terminated, they can no longer be accepted. These terminations include revocation by the offeror or refusal by the offeree. When someone receives an offer, they cannot accept it later on. If there's a time limit, the offer will end when that deadline passes. To create a legally binding agreement, both parties need to show they intend to make a contract. This intention is viewed objectively by the courts, not based on what people actually thought but how a reasonable person would see their actions. In business deals, it's usually assumed that both sides meant to create a contract, but this can be disputed in court. If no contract was intended in social or family agreements, evidence must be presented to prove otherwise. Consideration is often seen as something that benefits one party or hurts the other, but it doesn't always have to work that way. Promisors and promisees are common roles in contracts, with one side making a promise and the other receiving it. This consideration can come from actions taken by either party without necessarily benefiting the promisor. Contracts involving third parties can also fit this model. When promises involve future acts, they're considered executory, like A delivering widgets to B on a certain date. If that act is completed, the consideration becomes executed. Past considerations are not applicable in contract law as every contract requires an initial offer. Consideration is a crucial element in a contract, representing an exchange of benefits and drawbacks. When one party makes a promise in exchange for an act performed by the other party, it is said to be "past consideration." For instance, if person A gives person B a ride to the market and back home without expecting anything in return, but later B promises to give A some gas money, A cannot sue B to enforce the promise since the consideration (A's act of giving B a ride) occurred before B's promise. Contracts that impose a continuing liability on minors are generally considered voidable. These contracts can include partnerships, buying shares, and taking a lease on property. In order for a minor to avoid such a contract, they must do so either before reaching the age of 18 or within a reasonable time frame after reaching adulthood. Several factors may render a contract voidable, including: - Coercion under section 15 - Fraud, unless it involves silence and the party involved had the means to discover the truth with ordinary diligence (s 17) - Misrepresentation, unless the affected party had the means to discover the truth with ordinary diligence (s 18) - Undue influence under section 16 - Both parties intending for time to be of the essence in the contract and the contract not being performed within the specified timeframe (s 56) - A party refusing or failing to perform their promise entirely (s 40)