
RESCISSION OF CONTRACT: AN ANALYSIS

Linta S Vijayan, CSI College For Legal Studies, Kanakkary, Kottayam

1. INTRODUCTION

A contract creates legally enforceable obligations between the parties. Ordinarily, once a valid contract has been entered into, each party is expected to perform the promises undertaken by it. A contract is an agreement having specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as consideration. The contract law is at the heart of most commercial or business dealings. So, it is one of the most significant areas of law and can involve significant variations in circumstances and complexities. However, the law recognises circumstances in which a party should be permitted to withdraw from the contractual relationship and restore the parties, as far as possible, to their pre-contractual position. This remedy is known as rescission of contract.

Rescission essentially means setting aside, cancelling, or terminating a contract and releasing the parties from their future contractual obligations. It is particularly relevant where a contract is voidable because consent was obtained through fraud, misrepresentation, coercion or undue influence, or where the contract is otherwise terminable by the aggrieved party. The Indian Contract Act, 1872 and the Specific Relief Act, 1963 together provide the principal statutory framework governing rescission in India. Rescission must be distinguished from ordinary termination for breach. Termination generally brings contractual obligations to an end prospectively, whereas rescission, particularly in the context of a voidable contract, is concerned with undoing the contractual relationship and restoring benefits received under it. The remedy is based on the principle that a person should not be compelled to remain bound by a contract that the law permits that person to avoid.

2. RESCISSION

2.1 MEANING:

The word “Rescission” is derived from the Latin term *rescindere*, which means to cut or tear open and *rescissio*, which means to annul, cancel or undo.

If a contract is not providing to be beneficial depending on the situation, one has the option to rescind the contract. In Contract law, rescission refers to the cancellation or setting aside of a contract by a person having the legal right to do so, or by a competent court. The purpose of rescission is generally to release the parties from contractual obligations and where appropriate, restore the benefits received under the contract. The right of rescission is available under section 19¹ of the Indian Contract Act. Rescission attempts to restore the parties to substantially the position they occupied before the contract.

For Example: - A purchases a valuable painting from B because B fraudulently represents that the painting is an original work of a famous artist. A subsequently discovers that the painting is a forgery. If the contract is voidable on account of fraud, A may elect to rescind the contract, subject to the applicable legal requirements. A would ordinarily have to return the painting and B would have to return the consideration received.

2.2 DEFINITION:

The Indian Contract Act, 1872 does not provide a general standalone definition of word “rescission”. Instead, it regulates the concept through several provisions.

Section 62: Recognizes rescission by mutual agreement, providing that if the parties agree to substitute a new contract, rescind or alter the original contract, the original contract need not be performed².

Section 64: deals specifically with the consequences when a person entitled to avoid a **voidable contract** rescinds it. The rescinding party must restore any benefit received under the contract, so far as possible³.

The Specific Relief Act, 1963 provides the judicial remedy of rescission. Section 27 permits a person interested in a contract to sue for rescission where the contract is voidable or terminable by the plaintiff, or where the contract is unlawful for reasons not apparent on its face and the defendant is more blameworthy⁴.

Therefore, rescission may broadly be understood as: “The legal cancellation of a contract, by

¹ Voidability of agreements without free consent.

² Indian Contract Act, No. 9 of 1872, § 62, India Code (1872)

³ Indian Contract Act, No. 9 of 1872. § 64, India Code (1872)

⁴ Specific Relief Act, No. 47 of 1963, § 27(1), India Code (1963)

agreement, election of an entitled party, or judicial decree, whereby the contractual relationship is brought to an end and appropriate restitution or restoration may follow.”

3. ORIGIN AND DEVELOPMENT OF THE DOCTRINE

The doctrine of rescission has its historical roots in **English common law and equity**. At common law, damages were traditionally the principal remedy for breach of contract. However, damages were not always sufficient. Consider a situation where a person purchased property because of fraudulent information supplied by the seller. Merely awarding damages might not adequately address the problem because the purchaser might want **to undo the transaction itself**, rather than merely receive monetary compensation. This limitation contributed to the development of equitable remedies.

The **Courts of Chancery**, exercising equitable jurisdiction, developed remedies intended to provide relief where strict common-law rules produced injustice. Rescission became one of these equitable remedies. Equity recognized that where a contract had been procured by fraud, misrepresentation, undue influence or certain other vitiating circumstances, the innocent party should be allowed to **avoid the transaction and have the parties restored, as far as possible, to their original positions**. Thus, the historical foundation of rescission is closely associated with the equitable principle: **“A party should not be permitted to retain the benefit of a transaction obtained through circumstances that make its enforcement unjust.”**

Fraud and misrepresentation were among the principal circumstances in which equitable rescission developed. Rescission also developed in response to situations where consent was technically given but was obtained through **improper influence or domination**. Another important area in the historical development of rescission was **mistake**. Where parties entered into a transaction under a fundamental mistake concerning the subject matter or circumstances of the agreement, courts developed principles determining whether the transaction should remain enforceable. A major development in the doctrine was the recognition that rescission should ordinarily be accompanied by **restitution**.

The English principles of contract and equity influenced the development of Indian contract law during the colonial period. The most important statutory milestone was the enactment of the **Indian Contract Act, 1872**. The Act codified several principles relating to rescission and discharge of contracts. The next major stage in the development of Indian rescission law was

the enactment of the **Specific Relief Act, 1963**. The Act specifically provides a statutory framework for **judicial rescission**. The Specific Relief Act demonstrates that rescission remains an equitable and discretionary remedy. The present statutory framework therefore combines contractual principles with equitable considerations.

Indian courts have played an important role in developing the principles governing rescission. In *Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties*⁵, the Supreme Court considered the nature of proceedings involving cancellation and rescission of contractual instruments. The Supreme Court's interpretation of the Specific Relief Act has further developed the doctrine, particularly regarding the circumstances in which courts may grant or refuse rescission and the effect of rescission upon third-party rights. Today, rescission is no longer limited to traditional equitable principles. It operates within a comprehensive statutory and judicial framework.

4. ESSENTIAL CONDITIONS FOR RESCISSION OF CONTRACT

Rescission is not an automatic right. A party seeking to rescind a contract must satisfy certain **legal and equitable conditions**. Under the Indian Contract Act, 1872 and the Specific Relief Act, 1963, the following conditions are particularly important.

1. Existence of a Valid or Voidable Contract

There must be a contractual relationship capable of being rescinded. Rescission is particularly relevant where the contract is voidable, such as where consent was obtained through coercion, fraud, misrepresentation or undue influence. Sections 19 and 19A⁶ of the Indian Contract Act recognize such circumstances. A void agreement, on the other hand, does not ordinarily require rescission because it is already unenforceable by operation of law.

2. Existence of a Recognised Ground for Rescission

The person seeking rescission must establish a legal basis for doing so. Common grounds include:

⁵ *Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties*, (2021) 4 S.C.C. 786.

⁶ Indian Contract Act, No. 9 of 1872, §§ 19, 19A, India Code (1872)

- Fraud
- Misrepresentation
- Coercion
- Undue influence
- Repudiation or fundamental breach
- Failure to perform where time is of the essence
- A contractual right of termination or rescission
- Other circumstances recognized by law

3. The Right to Rescind Must Be Exercised by the Entitled Party

Rescission can generally be exercised only by the person who has the **legal right to avoid the contract**. For example, where A's consent was obtained through B's fraud, A may have the right to rescind. B cannot ordinarily rescind the contract on the same ground because B is the party responsible for the fraud.

4. Clear Election to Rescind

The party entitled to rescind must make a clear choice to avoid the contract. A person generally cannot simultaneously; affirm the contract; and seek to rescind it on the same ground. This is based on the principle of election. Once the aggrieved party has knowledge of the relevant facts, conduct showing an intention to affirm the contract may affect or extinguish the right to rescind.

5. Rescission must be Communicated

Where rescission is exercised by a party rather than through a court decree, the decision to rescind should be effectively communicated to the other party. **Section 66 of the Indian Contract Act, 1872** provides that rescission of a voidable contract may be communicated or revoked in the same manner and subject to the same rules as apply to communication or revocation of a proposal. For example, If A discovers that B induced A to enter into a

contract through fraud, A should communicate the decision to avoid the contract rather than merely remaining silent.

6. Absence of Ratification

The right to rescind may be lost if the aggrieved party **ratifies or affirms the contract** after becoming aware of the circumstances giving rise to rescission. Section 27(2)(a) of the Specific Relief Act, 1963 permits the court to refuse rescission where the plaintiff has expressly or impliedly ratified the contract. For examples, A enters into a contract because of B's misrepresentation. A discovers the misrepresentation but subsequently continues to enjoy the contractual benefits and expressly confirms the agreement. A may subsequently be prevented from seeking rescission.

7. Possibility of Substantial Restoration

Rescission is closely connected with **restitution**. Where a contract is rescinded, the parties should, as far as practicable, be restored to their pre-contractual positions. Section 64 of the Indian Contract Act requires a party rescinding voidable contract to restore any benefit received under the contract, so far as possible. Similarly, section 27(2)(b) of the Specific Relief Act permits refusal of rescission where, because of circumstances arising since the contract was made, the parties cannot be substantially restored to the position in which they stood when the contract was made.

8. No Unfair Prejudice to Bona Fide Third Parties

Rescission may be refused where innocent third parties have acquired rights in good faith. Under section 27(2)(c) of the Specific Relief Act, the court may refuse rescission where third parties have acquired rights in good faith, for value and without notice of the relevant circumstances. For example, A fraudulently sells property to B. Before A seeks rescission, B sells the property to C, who purchases it honestly, for value and without knowledge of the fraud. The rights of C may affect A's ability to obtain rescission.

5. DIFFERENT MODES OF RESCISSION

1. Rescission by Mutual Agreement

This is the simplest mode of rescission. The parties themselves agree to cancel the

existing contract. **Section 62** provides that when the parties to a contract agree to rescind or alter it, the original contract need not be performed.

For example, A agree to sell a car to B for Rs. 5 lakh. Before delivery, both A and B mutually agree to cancel the agreement. The original contract is discharged by mutual rescission.

2. Rescission by Unilateral Election

A contract may be voidable at the option of one party because that party's consent was improperly obtained. The aggrieved party may have the right to avoid the contract. The party entitles to rescind must elect to avoid the contract rather than affirm it.

For example, A fraudulently represents to B that a particular machine is brand new. B purchase it relying on the representation. Upon discovering the fraud, B may elect to rescind the contract, subject to the requirements of law.

3. Judicial Rescission

Where the circumstances require intervention by a court, the aggrieved party may file a suit seeking rescission. Under **Section 27**, a person interested in a contract may sue for its rescission where, among other circumstances, the contract is voidable or terminable by the plaintiff or the contract is unlawful for a reason not apparent on its face and the defendant is more blameworthy.

For example, A enters into an agreement to purchase property from B because of fraudulent representations by B. A may institute proceedings seeking rescission of the agreement.

4. Rescission due to Breach or Repudiation

Where one party refuses to perform the contract or disables himself from performing his promise in its entirety, the other party may be entitled to put an end to the contract. **Section 39** deals with repudiation and provides that when a party refuses to perform or disables himself from performing the promise in its entirety, the promise may put an end to the contract, unless the promisee has signified acquiescence in its continuance.

For example, A agrees to supply 1,000 units of goods to B. Before the due date, A informs B that he will not supply any of the goods. B may, subject to the circumstances, treat the contract as at an end and claim appropriate remedies.

5. Rescission Due to Failure to Perform at the Specified Time

Section 55 of the Indian Contract Act deals with failure to perform a promise at the specified time. Where time is of the essence of the contract, failure to perform within the stipulated time may make the contract voidable at the option of the promisee.

For example, A agrees to deliver machinery to B on a particular date, expressly making timely delivery essential because B has a scheduled production contract. If A fails to deliver within the stipulated period, B may have a right to avoid the contract, depending on the terms and circumstances.

6. Rescission following Fraud or Misrepresentation

Although technically this falls within unilateral rescission of a voidable contract, it is often separately discussed because it is one of the most important practical grounds. Under **Section 19**, a contract is voidable at the option of the party whose consent was caused by coercion, fraud or misrepresentation, subject to the statutory requirements.

For example, A sells a property to B after falsely representing that the property has no legal encumbrances. B subsequently discovers that the representation was fraudulent. B may seek to avoid the transaction if the requirements for rescission are satisfied.

7. Rescission for Undue Influence

Section 19A provides a specific remedy where a contract has been induced by undue influence. The court may set aside the contract either absolutely or on such terms as justice may require.

For example, A person in a position of dominance induces another person to enter into a grossly unfair financial transaction. If the transaction is established to have resulted from undue influence, the court may set it aside on appropriate terms.

8. Judicial Rescission After a Decree for Specific Performance

A special form of rescission arises under **Section 28** of the Specific Relief Act, 1963. Where a court has passed a decree for specific performance of a contract for the sale or lease of immovable property, but the purchaser or lessee fails to pay the required amount within the period specifies by the court, the vendor or lessor may apply in the same suit for rescission of the contract.

For example A court orders B to purchase A's property and directs B to pay the balance consideration within a specified period. B fails to make the payment. A may seek rescission of the contract under section 28.

6. CONSEQUENCES OF RESCISSION OF A VOIDABLE CONTRACT

The **Indian Contract Act, 1872**, specifically **Section 64**, lays down the consequences when a person who has the right to avoid a **voidable contract** exercises that right and rescinds the contract. The main consequences are as follows:

1. Contractual Obligations Come to an End

Once a voidable contract is validly rescinded by the party entitled to avoid it, **the other party is no longer required to perform the promises under the contract**. Thus, rescission releases the parties from their future contractual obligations,

For example, A purchases goods from B under a contract induced by B's fraud. A discovers the fraud and rescinds the contract. B can no longer insist that A perform the original contractual obligations.

2. Restoration of benefits received

The party rescinding the contract must restore any benefit received under the contract, so far as possible, to the person from whom it was received. This is the principle of restitution.

For example, A pays ₹1 lakh to B under a contract induced by fraud. A rescinds the contract. A must return any goods or other benefit received from B, while B must restore the ₹1 lakh received.

3. The parties are, as far as possible, restored to their original position

The underlying objective of rescission is to place the parties, so far as practicable, in the position they occupied before entering into the contract. This is known as “restitutio in integrum”. However, complete restoration is not always possible. The law therefore generally requires restoration so far as possible, rather than demanding an impossible return to the exact original position.

4. Compensation may be available

Rescission does not necessarily prevent the aggrieved party from claiming compensation for loss. Section 75 of the Indian Contract Act provides that a person who rightfully rescinds a contract is entitled to compensation for damage sustained through the non fulfilment of the contract.

5. Bona Fide Third Party Rights may be Protected

Rescission may also be affected where an innocent third party has acquired rights in the subject matter. Section 27 (2)(c) of the Specific Relief Act permits the court to refuse rescission where third parties have acquired rights in good faith, for value and without notice of the relevant circumstances.

7. LIMITATION OF RESCISSION OF CONTRACT

Rescission is not an absolute right. Several statutory and equitable limitations restrict its availability.

1. Ratification of the contract

If the aggrieved party, after becoming aware of the relevant circumstances, expressly or impliedly ratifies the contract, the court may refuse rescission. Section 27 (2)(a)⁷ of the Specific Relief Act expressly recognizes this limitation. For Example: A discovers that B fraudulently induced the contract but, instead of avoiding it, continues to perform the contract and accepts its benefits. A's subsequent claim for rescission may be affected by such conduct.

⁷ Specific Relief Act, No. 47 of 1963, § 27(2)(a)

2. Impossibility of substantial restoration

Rescission may be refused where circumstances have changed so substantially that the parties cannot be substantially restored to their original positions⁸.

3. Non Severability

Where only part of a contract is sought to be rescinded and that portion is not severable from the remainder, the court may refuse rescission under section 27 (2)(d)⁹. The court considers whether the contract can practically and fairly be divided.

4. Rescission is subject to judicial discretion

Judicial rescission is not granted automatically merely because a plaintiff requests it. The court examines the circumstances of the contract, the conduct of the parties, whether the claimant has ratified the contract, whether restoration is possible, third-party rights and other relevant equitable considerations. The Supreme Court has emphasized that rescission operates within this structured framework.

5. Rescission cannot normally be used for every breach

Every breach of contract does not automatically give rise to rescission. The nature and seriousness of the breach and the applicable contractual and statutory provisions must be considered. In cases of repudiation, for example, section 39 of the Indian Contract Act becomes relevant.

6. Restitution may create practical difficulties

Although restoration is an important objective, it may be difficult where goods have been consumed, property has substantially changed, benefits cannot be returned, the subject matter has been transferred to another person or the parties have significantly changed their positions.

⁸ Specific Relief Act, No. 47 of 1963, § 27(2)(b)

⁹ Specific Relief Act, No. 47 of 1963, § 27(2)(d)

8. IMPORTANT CASE LAWS

1. Kalyanpur Line Works Ltd v. State of Bihar¹⁰

This is a landmark decision by the Supreme Court of India dealing with contract law, specific performance, mistakes of law vs. fact, and performance by a vendor with an imperfect title. The Supreme Court considered contractual rights in relation to a lease and the availability of relief under the specific relief framework. It can be used to explain judicial discretion in contractual remedies, specific relief, contractual rights relating to immovable property and the equitable character of relief.

2. Satyabrata Ghose v. Mugneeram Bangur & Co.¹¹

This is a landmark Supreme Court decision concerning **section 56¹² of the Indian Contract Act, 1872**, particularly the doctrine of frustration. The Court explained the scope of **impossibility of performance** and when a contract may come to an end because of a supervening event.

3. Mohori Bibee v. Dharmodas Ghose¹³

This is a foundational judgment delivered by the Judicial Committee of the Privy Council. It established the strict rule in Indian contract law that any contract entered into by a minor is void from the beginning (*void ab initio*). Although this is not a direct rescission case, it is useful when explaining the distinction between: void agreements, voidable contracts; and contracts that can actually be rescinded. This distinction is important because Section 64 of the Indian Contract Act specifically deals with the consequences of rescission of a voidable contract.

4. Jain Narain Parasrampur v. Pushpa Devi Saraf¹⁴

The dispute concerned a transaction involving immovable property and claims arising from an agreement. The Supreme Court considered the appropriate equitable relief and ultimately

¹⁰ *Kalyanpur Lime Works Ltd. v. State of Bihar*, 1954 SCR 958

¹¹ *Satyabrata Ghose v. Mugneeram Bangur & Co.*, 1954 SCR 310

¹² Agreement to do an act impossible in itself is void.

¹³ *Mohori Bibee v. Dharmodas Ghose*, (1903) 30 I.A. 114 (P.C.)

¹⁴ *Jai Narain Parasrampur v. Pushpa Devi Saraf*, (2006) 7 S.C.C. 756.

directed refund and compensation after declining specific performance in the circumstances.

5. M L Devender Singh v. Syed Khaja¹⁵

The Supreme Court considered the relationship between contractual rights and the discretionary remedies available under the Specific Relief Act.

9. CONCLUSION

In a valid contract between two or more persons, when there is misrepresentation by a party, the other party is legally entitled to have it terminated. A contract may be rescinded either by release or by agreement. Certain provisions of Specific Relief Act, 1963 provide a mode of judicial redressal for the aggrieved party against the opposite party. Rescission is fundamentally a method of undoing the injustice done to a party. Rescission of contract is an important remedy under Indian Contract Act that enables an entitled party to withdraw from a contractual relationship where continuation of the contract would be legally and equitably unjust.

The doctrine is principally governed by the Indian Contract Act, 1872 and the Specific Relief Act, 1963. The Indian Contract Act addresses rescission through provisions such as **sections 19, 19A, 39, 55, 62, 64, 66 and 75**, while the Specific Relief Act provides the judicial framework under **sections 27–30**¹⁶. Together, these provisions establish when rescission may be exercised, how it may be obtained, and what consequences follow. The central objective of rescission is not merely to terminate contractual obligations but, where possible, to **restore the parties to substantially their pre-contractual position**. This is why restitution forms an important component of the doctrine.

The judiciary has played an important role in developing the doctrine. In *Deccan Paper Mills Co. Ltd. v. Regency Mahavir Properties*, the Supreme Court examined the nature and scope of rescission under the Specific Relief Act and emphasised the statutory framework governing the remedy. The distinction between rescission and other forms of discharge, particularly frustration under section 56 of the Contract Act, is also important, as demonstrated by *Satyabrata Ghose v. Mugneeram Bangur & Co.*

¹⁵ *M.L. Devender Singh v. Syed Khaja*, (1973) 1 S.C.C. 515.

¹⁶ Sections 27 to 30 of Specific Relief Act, 1963 deal with the rescission of a contract.

Despite its importance, rescission has practical limitations. **Proving fraud or misrepresentation, restoring the parties to their original position, dealing with third-party rights, avoiding ratification and obtaining timely judicial relief** can make the remedy difficult to exercise. These limitations are necessary, however, to prevent rescission from being used arbitrarily and to maintain certainty in commercial transactions.

Therefore, rescission should not be viewed merely as a mechanism for terminating a contract. It is a **corrective and equitable remedy designed to restore fairness while protecting contractual stability**. The Indian legal framework appropriately attempts to balance the interests of the aggrieved party, the opposing contracting party and innocent third parties. Its continuing development through judicial interpretation remains essential to address increasingly complex contractual and commercial relationships.

BIBLIOGRAPHY

STATUTES:

- The Indian Contract Act, 1872
- The Specific Relief Act, 1963

BOOKS:

- Avtar Singh, Contract & Specific Relief, 920-926 (EBC, 12th en., 2020)

WEBSITES:

- Varsha Jhavar, What to do if a contract is not proving to be beneficial for you? IPLEADERS (May 14, 2016), <https://blog.ipleaders.in/rescission-of-a-contract/>.
- Daniel Liberto, Charles Potters and Skyler Clarine, Understanding Rescission: Key Requirements, Processes and Examples INVESTOPEDIA (July 21, 2026), <http://investopedia.com/terms/r/rescission.asp>