
VIOLATION OF A LEGAL RIGHT A SIN QUA NON

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ABSTRACT

Sin qua non is a Latin phrase. Violation of a legal right is a sin qua non for law of torts. It is a circumstance in which a certain act is a material cause of a certain injury or wrongdoing, without which the injury would not have occurred. A tort claim for damages may be brought when someone's legal rights are violated, whether or not this results in a legal injury. However, if there is no violation of that person's rights, their actions that cause loss or harm to another person are not actionable. In the law of torts, a causal connection exists between a particular act and an injury. This is known as the rule of sine qua non. All citizen's legal rights are safeguarded by the law. The people are granted the legal right by virtue of being a citizen of the nation. Everyone has a responsibility to uphold each person's rights. Any legal right that stands infringed, has a corresponding legal duty which was not performed appropriately. Violation of a legal right has to happen for a tort to take place.

Keywords: Legal right, Corresponding legal duty, Injury, Torts

Introduction

A *sin qua non* means an essential condition that is absolutely necessary. Violation of a legal right follows this rule. Merely granting of rights and duties is of no use, if they do not have the support of the rule of law, this is the legal protection that can be enforced in court.

Violation of a legal right in a Tort

It is one amongst the 5 essentials of a tort; Malice in Law, Legal Damage, Reasonable Foresight, Damage and Intention. According to Section 2(m) of Limitation Act, A tort is a civil wrong which is neither a breach of contract nor a breach of trust. Law of tort is uncodified as it is dynamic in nature. It is regulated by various case laws or precedents.¹ Violation of a legal right is in easier terms called, legal damage or *Injuria*. It means infringing a legal right of a person. There can't take place a tort, without the violation of a legal right.

Relevant Maxims

1. *Injuria Sine Damnum*: It means infringement of a legal right without causing any damage. It is actionable in the court of law since it leads to breaching or violation of a person's legal right guaranteed to him a citizen of a country.

CASE LAWS:

Ashby Vs White:

Facts of the case:

- a) The plaintiff was a potential voter.
- b) He was stopped by a police officer without any reasonable cause while he was on his way to cast a vote in the elections.
- c) This prevented him from casting his vote.
- d) The candidate he wanted to vote for, won the elections.
- e) Voting is a legal right. He filed a case against the police officer.

Judgement:

The verdict of the court was that the defendant was liable. Although since the candidate for which the plaintiff wanted to vote for, won the elections, but the legal right to cast a vote of the

¹ <https://www.lawprenuerz.com> Last visited on 4.05.2023

plaintiff was infringed. Thus, he was entitled to get compensation even when no damage was caused.

Bhim Singh Vs State of Jammu and Kashmir:

Facts of the Case:

- a) The plaintiff was an MLA.
- b) He was stopped by a police officer without any reasonable cause, in the way while he was going to attend an assembly session.
- c) His legal right to attend the assembly was violated.
- d) He filed a suit for the same.

Judgement:

The verdict of the court was that the plaintiff is entitled to compensation, since his legal right to attend the assembly was violated.

Damnum Sine Injuria: It means that damage has been caused but infringement of legal right has not taken place. It is not actionable in the court of law as no right has been violated.

Glucoster Grammar School Case:

Facts of the Case:

- a) In a society, a school was set up by the plaintiff.
- b) There were a hundred children who were enrolled in the school.
- c) Right beside it, the defendant also started a school.
- d) Half of the children shifted to the new school, owned by the defendant.
- e) The plaintiff filed a suit claiming damages from the defendant.

Judgement:

The verdict of the court was that since no legal damage or infringement of a legal right was caused to the plaintiff, he was not entitled to damages. Mere damage without infringement of a legal right is not actionable.

Understanding Legal Rights

Legal Right and Duty Correlation

Legal Rights: A legal right is an interest that is acknowledged by a rule of legal justice, is protected by that rule, and whose breach would constitute a legal wrong. Therefore, it follows that in all civilised societies, law refers to the regulations that set the standards for acceptable human behaviour.²

The state is also responsible for enforcing the obligations and rights established by such laws. Given that rights are essential to all civil societies, the concept of right has fundamental importance in today's legal system.

A right, according to SALMOND, is an interest that is safeguarded by a law of rights. It is any interest, whose observance is proper and whose disdain is improper.

Legal Duty: A duty is an action that is obligatory. It is a behaviour that would be improper if it were not performed. It is an act that should be performed or avoided performing for someone else. Any matter for which a man is legally obligated has a duty attached to it. Therefore, obligations and wrongdoing are typically linked.

CASE LAW:

In the case of **State of Rajasthan vs Union of India**, the Supreme Court stated that “Legal rights in the strict sense are correlatives of legal duties and legal rights are defined as the interests which the law protects by imposing duties on other persons. But the legal right in the strict sense means right is the immunity from the legal power of another. Immunity is no subjection at all”

Difference between a Legal Right and a Fundamental Right

An individual has any fundamental right as against the state. Whereas, a legal right is the one which imposes a corresponding obligation. All the fundamental rights are a part of the basic structure of the Indian constitution.³ Whereas, the legal rights are not. If there is a violation of a legal right in India, the citizen moves to the ordinary courts, firstly. On the other hand, if there is violation of a fundamental right of a citizen, he can directly approach the supreme court of India.⁴

² <https://www.toppr.com> Last visited on 4.05.2023

³ <https://blog.ipleaders.in> Last visited on 4.05.2023

⁴ <https://lawyersknowledge.com> Last visited on 4.05.2023

Conclusion

Where there is a right, there is a remedy i.e., *ubi jus ibi remedium*. If someone's rights are violated, the court can be contacted. They are eligible for relief in the form of payment. When the compensation is insufficient to cover the plaintiff's claim, the court may order the Contract to be specifically performed.⁵ The Specific Relief Act controls it. Legal rights empower a person. These rights set a standard, permitted by the law. It describes the legal minimum standard of behaviour as a legal phrase. The term "legal right" refers to the people's permitted behaviour. It is important to distinguish between the legal right and moral or natural rights. The interests that the law recognizes and defends are known as legal rights. It is against the law to violate this interest, hence upholding it is a legal obligation.⁶

⁵ <https://www.ohrc.on.ca> Last visited on 4.05.2023

⁶ <https://academic.oup.in> Last visited on 4.05.2023