

Transfer of Property Act 1882 Chapter VII - Of gifts

122. "Gift" defined:

“Gift” is the transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee and accepted by or on behalf of the donee.

Acceptance when to be made. — Such acceptance must be made during the lifetime of the donor and while he is still capable of giving.

If the donee dies before acceptance, the gift is void.

123. Transfer how effected:

For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer maybe effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

124. Gift of existing and future property:

A gift comprising both existing and future property is void as to the latter.

125. Gift to several of whom one does not accept:

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**A gift of a thing to two or more donees, of whom one does not accept it, is void as to the interest which he would have taken had he accepted.**

**126. When gift may be suspended or revoked:**

**The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.**

**A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded**

**Save as aforesaid, a gift cannot be revoked.**

**Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice**

**Illustrations**

**(a) A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.**

**(b) A gives a lakh of rupees to B, reserving to himself, with B's assent, the right to take back at pleasure Rs.10,000 out of the lakh. The gift holds good as to Rs.90,000, but is void as to Rs.10,000 which continue to belong to A.**

**127. Onerous gifts:**

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Where a gift is in the form of a single transfer to the same person of several things of which one is, and the others are not burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things, the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

**Onerous gift to disqualified person.** —A donee not competent to contract and accepting property burdened by any obligation is not bound by his acceptance. But if, after becoming competent to contract and being aware of the obligation, he retains the property given, he becomes so bound.

**Illustrations**

(a) A has shares in X, a prosperous Joint stock company, and also shares in Y, a joint stock company in difficulties. Heavy calls are expected in respect of the shares in Y. A gives B all his shares in joint stock companies. B refuses to accept the shares in Y. He cannot take the shares in X.

(b) A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to B the lease, and also, as a separate and independent transaction, a sum of money. B refuses to accept the lease. He does not by this refusal forfeit the money.

**128. Universal donee:**

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Subject to the provisions of section 127, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by 1[and liabilities of the donor at the time of the gift to the extent of the property comprised therein.

129. Saving of donations mortis causa and Muhammadan law:

Nothing in this Chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammad an law

