



## FACULTY OF JURIDICAL SCIENCES

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# Lecture-11



## Concept of Contingent Interest

Section 21 of the Transfer of Property Act, 1882 states about Contingent Interest. It is an interest which is created in favour of a person on a condition of the happening of a specified uncertain event. The person having the contingent interest does not get the possession of that property but has the expectancy to receive it upon happening of that event but will not receive the property if the event does not happen as the condition is not fulfilled. Contingent interest is entirely dependent on the condition imposed on the transfer.

For example, A agrees to transfer the property 'X' to B on the condition that he shall secure 90 % in his exams. This condition is uncertain and the happening of the event or not happening is in doubt and therefore B here acquires a contingent interest in the property 'X'. He shall get the property only if he gets 90 % and when the condition is fulfilled.

In the case of [Leake v. Robinson \(1817\) 2 Mer 363](#) the court held that whenever a condition involves a bequest that is to be given 'at' a particular age or 'upon attaining' a particular age or 'after' attaining this particular age, then it can be derived that the transfer involves a contingent interest

### Characteristics of Contingent Interest:

1. A) This interest is entirely dependent upon the condition. It only happens when the condition is fulfilled.
2. B) Death of the transferee before getting the possession of the property will result in the failure of contingent interest and the property will remain with the transferor.
3. C) Contingent interest is a Transferable right, but whether it is heritable or not, it depends upon the nature of such any transfer and the condition.

There are some important aspects surrounding contingent interest which are explained in detail below:

1. **Interest:** In a transfer if a condition is such that the transfer will take effect only upon the fulfilment of that condition and till that time, the interest is contingent.
2. **Contingent Interest exists in wills:** Any bequest to a wife, son or daughter can be a contingent interest if the condition provides so.
3. **Exception:** When a person who has an expectancy in the rights of ownership of a particular property, and he for the time being till the happening of the event, gets any sort of income that arises from that property. This interest in the property does not come under the aspect of contingent interest.

[Section 120 of the Indian Successions Act, 1925](#) lays down the exceptions for contingent interest.

**Section 22** states about the transfer to a group or class of members with a contingent interest. For example, there is a transfer to a group of 5 people, and the condition is that the property will be vested in persons who attain the age of 40 years on this particular date. The persons who have attained this age will get an interest in the property and people who have not, will not get an interest in that property.

**Section 23** states about a transfer that happens after happening of an event that was mentioned in the transfer involving contingent interest. This provision simply lays down one of the two branches of Section 21 that laws down about contingent interest. The two branches are happening of an event and non-happening of an event. This Section states about what happens after the happening of the specified uncertain event.

**Section 24** states about a transfer to a group or class of members who will get the property on a condition that they shall be living at the specified date. This is

also a contingent interest as the event mentioned here is an uncertain event. The transfer will only take place for those people who satisfy the condition of surviving at a particular date. The legal heirs of the deceased cannot claim an interest in that property as a transfer involving a contingent interest solely depends upon the fulfilment of the condition.

### **Difference between Vested & Contingent Interest:**

Sign number	Ground of Difference	Vested Interest	Contingent interest
1.	Section	Vested interest is provided in <b>Section 19</b> of the Transfer of Property Act, 1882.	Contingent interest is provided in <b>Section 21</b> of the Transfer of Property Act, 1882.
2.	Definition	It is an interest which is created in favour of a person where time is not specified or a condition of the happening of a specified certain event. The person having the vested interest does not get the possession of that property but has the expectancy to receive it upon happening of a specified certain event.	It is an interest which is created in favour of a person on a condition of the happening of a specified uncertain event. The person having the contingent interest does not get the possession of that property but has the expectancy to receive it upon happening of that event but will not receive the property if the event does not happen as the condition is not fulfilled.

3.	Condition	The condition involves a <b>specified certain event</b> . A certain event means an event that will eventually happen.	The condition involves a <b>specified uncertain event</b> . There is a chance of the happening or non-happening of that particular event.
4.	Fulfilment of conditions	Vested Interest does <b>not entirely depend on the condition</b> as the condition involves a certain event. It creates a present right that is in effect immediately, although the enjoyment is postponed to the time prescribed in the transfer.	Contingent interest is <b>entirely dependent on the condition</b> imposed on the transfer. Interest is only transferred to the transferee on the fulfilment of the condition imposed.
5.	Right of Ownership	This right is <b>created</b> as soon as the <b>interest is vested</b> .	There is <b>mere chance</b> to be having the ownership rights.
6.	Death of transferee	Death of the person who is having this interest <b>will not have any effect</b> over that interest as after the deceased, the interest will vest in his legal heirs.	Death of the transferee before getting the possession of the property <b>will result in the failure</b> of contingent interest and the property will remain with the transferor.
7.	Transferable and	Vested interest is a <b>Transferable and</b>	Contingent interest is a <b>Transferable right</b> , but

	heritable?	<b>heritable right.</b>	whether it is <b>heritable or not</b> , it <b>depends upon the nature</b> of such any transfer and the condition.
8.	The present right of enjoyment.	There <b>is present, immediate right</b> even when its enjoyment is postponed.	There is <b>no present right</b> of enjoyment, there is a mere expectancy of having such a right.
9.	Examples	X professes to transfer the property 'O' to Y when he attains the age of 20. There is a vested interest with Y for the property 'O'.	X professes to transfer the property 'O' to Y on the condition that he shall construct a well in his property. If he constructs, Y shall get contingent interest in the property until the condition is not fulfilled.

## Conclusion

The Transfer of Property Act, 1882 deals with two kinds of interest that are vested interest and contingent interest. The concepts of vested interest and contingent interest are something that is very important to understand as there are many sections relating to these concepts. The main point to understand about both the concept is that the transfer of property involving Contingent interest takes effect only after the condition is fulfilled, if the condition is not fulfilled then the transfer will not take effect.

The conditions are required to be fulfilled and they have to necessarily comply with the rules of the preamble that talk about justice, equity and good conscience, the three major principles of the natural law on which this whole act is based upon. In a transfer of property involving vested interest, the transfer is not invalidated if the condition mentioned is not fulfilled. The reader will get to know about the basic meaning and interpretations of the sections involving the two concepts with the help of various examples. The author has tried to explain the two concepts by discussing all the aspects of both for a better understanding of the provisions. Towards the end, the author has also discussed certain judicial pronouncement in a brief manner as to make sure that the reader understands the concept in a more direct and easier way and so that he can get into more and more specific details of the two concepts.



## MCQ

**1.** In the context of contingent interest in case of happening of a uncertain event or if a specified uncertain event shall not happen, such person acquires a contingent interest in the property. Such interest

- (a) becomes vested interest in the former case, on the happening of the event, in the later, when the happening of event becomes impossible
- (b) does not become vested interest
- (c) vested interest does not depend upon happening or not happening of event
- (d) none of the above.

**2.** The provision of contingent interest is provided in:

- (a) section 20 of the Transfer of Property Act, 1882
- (b) section 21 of the Transfer of Property Act, 1882
- (c) section 22 of the Transfer of Property Act, 1882
- (d) section 23 of the Transfer of Property Act, 1882

**3.** Which of the following is not correctly matched?

- (a) Conditional transfer - - Section 24
- (b). Vested interest --Section 19
- (c) Contingent interestSection 21
- (d) Rule against perpetuity --Section 14

**4. Characteristics of Contingent Interest is/ are:**

- (a) This interest is entirely dependent upon the condition. It only happens when the condition is fulfilled.
- (b) Death of the transferee before getting the possession of the property will result in the failure of contingent interest and the property will remain with the transferor.
- (c) Contingent interest is a Transferable right, but whether it is heritable or not, it depends upon the nature of such any transfer and the condition.
- (d) All of the above

**5.** Which **Section of the Indian Successions Act, 1925** lays down the exceptions for contingent interest.

- (a) 119
- (b) 1 20
- (c) 121
- (d) None of the above