

FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B./BBA.LLB/LL.B.

Semester - II

SUBJECT: ALWS II

SUBJECT CODE: BAL-208/BBL-208/LLB-206

NAME OF FACULTY: Dr. Arun Verma

Lecture-15



Gift Deed

Gift Deed is a legal document validating the transfer of property, both movable and immovable, from a person called the Donor, with no material consideration whatsoever, made to another, called the Donee, barring natural love and affection.

Section 122 of the Transfer Of Property Act, 1882 adds to the above definition of Gift by making acceptance of the Gift Deed within the lifetime of the Donor imperative, without which the Gift is rendered void.

The Gift Deed can be rendered meaningless in very few circumstances. Revocation of a Gift Deed occurs when there is evidence of coercion or undue influence on the part of Donee. This can be effectively contested in court to revoke a Gift Deed and consequently redeem the damage made to the Donor.

Transference, Follows Acceptance

You have drafted your Gift Deed and this step marks the end of work on your part, which is transference. However, it doesn't quite end there, for acceptance is nevertheless a crucial step to sealing the Deed. Should the Donee refuse to accept your Gift, it is indeed rendered null and void. Furthermore, the Gift should be transferred within the lifetime of the Donee too. The presence of an heir will make little difference if you should find yourself in such a fix.

To successfully transfer a property, there are a few more things one ought to remember. You could be an heir yourself to a certain property you are willing to Gift but one can never transfer such a property through a Gift Deed. Why? Because the asset you will be transferring should be registered under your name. If a person wishes to gift a property under loan, there arises no problem from it as long as the Donee accepts the gift with awareness of the same. The Donee, hence, shall be taking the property subject to pre-existing mortgage, debts or liabilities.

When you are investing on a property under construction, it constitutes a future property, in which case, registration is absent. Hence, one cannot gift such a property.

In the instance where one is gifting a property to two or more Donees, to ensure the Deed is absolute, it is not mandatory for all to accept it. The part of Deed affecting the interest of the Donee who refuses to accept is rendered void while the rest holds sway.

What Renders A Gift Invalid?

Before drafting a Gift Deed you should know all the instances where it could be rendered invalid for it can never indulge with the whims of the Donor. Though the instances are few, should you find you that your Gift Deed is in conflict with the law, the blindfolded Lady Justice is never far away from helping you.

Here are a few cases which can render one's Gift void –

- When the Donor or Donee dies before the acceptance of the Gift Deed.
- When the Donor isn't of sound mind.
- When the Donor is a minor.
- When there is no acceptance on the part of the Donee.
- When the property/asset in question is a future property.
- When the Deed is expressed under Coercion or Undue Influence (E.g.: When X agrees to marry only if his/her spouse promises to transfer assets. Dowry can be a valid example too.)
- When there is Consideration.
- When the property is not registered.

Registration Is Always Indispensable

Once the Gift Deed is signed by both the parties, implying transference and acceptance, it is mandatory to register, if the Gift Deed is of an immovable property. Also, it acts as a firewall when you are facing a legal dispute, as unregistered Gift Deeds are inadmissible in court. However, before considering Registration costs, let us examine the Stamp Duty charges stipulated for a Gift Deed. Stamp Duty rules vary from state to state as it is a part of the State List. Based on the requirements of each State, it can be used as an effective tool to raise revenue. Incidentally, Uttar Pradesh doesn't provide any special provisions while gifting

properties within one's family implying that Stamp Duty is universally applied irrespective of the relationship between the Donor and the Donee. Stamp Duty charge for a Gift Deed in U.P. is Rs. 60.

Once you've paid the Stamp Duty and acquired the Stamp Paper of required denomination from the nearest Sub-registrar Office, District Registrar Office or even some Public Banks, print the document you downloaded from us on it. A better way to do this would be to suggest all the changes you want in the document and leave the rest to us, be it procuring the Stamp Paper, printing, and finally delivering.