# 54 Terminologies Of Civil Law

## Which Every Lawyer Must Know

By Dr Neel Mani Tripathi

1. **Ademption**
    - **Meaning:** The extinguishment of a specific bequest because the exact item is no longer in the estate at the time of the testator's death.
    - **Use:** Determines how inheritances are affected when the property no longer exists.
2. **Abatement**
    - **Meaning:** A reduction or suspension of legal proceedings or remedies.
    - **Use:** Often applied in

cases of overlapping claims or when multiple suits are pending.

3. **Accession**
    - **Meaning:** The legal principle whereby an owner gains rights over enhancements made to their property.
    - **Use:** Used in property disputes where improvements or additions become part of the original property.

4. **Accord and Satisfaction**
    - **Meaning:** A settlement

agreement that resolves a dispute through a new agreement, replacing an earlier claim.

- **Use:** Frequently employed in contract disputes to settle obligations by mutual consent.

5. **Act of God (Force Majeure)**
   - **Meaning:** Unforeseeable natural events that relieve parties from contractual obligations.
   - **Use:** Invoked in

contract law when natural disasters disrupt performance.

6. **Alimony**
   - **Meaning:** Financial support awarded to a spouse after divorce.
   - **Use:** A remedy in family law ensuring economic support post-separation.

7. **Amicus Curiae**
   - **Meaning:** “Friend of the court” – a person or group not party to the case who offers information to

assist the court.

- **Use:** Common in appellate litigation, providing expertise on broader implications.

8. **Annulment**
   - **Meaning:** A legal decree that a marriage or contract is null and void.
   - **Use:** Utilized in family and contract law to invalidate agreements or marriages.

9. **Antenuptial Agreement**
   - **Meaning:** A contract entered into before

marriage, outlining property rights and spousal support in case of divorce.

- **Use:** Helps prevent future disputes regarding asset division.

10. **Avulsion**
    - **Meaning:** The sudden loss or addition of land due to a natural force.
    - **Use:** Applied in property law to determine ownership after significant land changes.

11. **Bona Fide**
    - **Meaning:** In good faith;

genuine and without intent to deceive.

- **Use:** Used to assess the fairness of actions or transactions.

12. **Caveat Emptor**
    - **Meaning:** "Let the buyer beware" – the buyer assumes the risk in a transaction.
    - **Use:** A doctrine in contract and property law that shifts due diligence to the purchaser.

13. **Certiorari**
    - **Meaning:** A writ

ordering a lower court to send records for review by a higher court.

- **Use:** Commonly Used in appellate procedures to review judicial decisions.

14. **Chattel**
    - **Meaning:** Movable personal property as opposed to real property.
    - **Use:** Distinguishes tangible movable items in disputes over ownership.

15. **Collation**
    - **Meaning:** The process of bringing together assets

or contributions for equitable distribution.

- **Use:** Often Used in inheritance cases to ensure fair division among heirs.

**16. Comity**

- **Meaning:** Respect and deference given by one jurisdiction to the laws and judicial decisions of another.
- **Use:** Facilitates cross-border litigation and recognition of foreign judgments.

17. **Condonation**

- **Meaning:** The voluntary forgiveness of a wrongdoing, which may preclude a claim for breach of duty.
- **Use:** In contract and family law, it can limit the recovery of damages.

18. **Construe**

- **Meaning:** To interpret or analyze the language of a document or statute.
- **Use:** Central to judicial interpretation of contracts and legislation.

19. **Contra Proferentem**

- **Meaning:** A principle where ambiguous contractual terms are interpreted against the interests of the party that drafted them.
- **Use:** Encourages clear contract drafting and protects the non-drafting party.

20. **Covenant**

- **Meaning:** A formal promise within a contract, often regarding property Use or behavior.

- **Use:** Common in real estate and contract law to ensure compliance with agreed terms.

**21. Curtesy**

- **Meaning:** The right of a widower to a portion of his deceased wife's real property.
- **Use:** An ancient doctrine still referenced in certain jurisdictions concerning marital property rights.

**22. Dower**

- **Meaning:** The right of a

widow to a share of her deceased husband's estate.

- **Use:** Provides financial security and is applied in family and probate law.

**23. Debenture**

- **Meaning:** A type of debt instrument not secured by physical assets, backed only by the creditworthiness of the issuer.
- **Use:** Common in corporate and commercial finance disputes.

**24. Declaratory Judgment**

- **Meaning:** A court

determination of the rights and obligations of parties without ordering any specific action or awarding damages.

- **Use:** Helps resolve uncertainties in legal relationships, often in contract disputes.

25. **Devolution**

- **Meaning:** The process by which property or rights pass to heirs or next in line.
- **Use:** Fundamental to inheritance law and estate planning.

**26. Distraint**

- **Meaning:** The seizure of property to compel payment of a debt.
- **Use:** A remedy in debt recovery and landlord-tenant disputes.

**27. Doctrine of Equivalents**

- **Meaning:** In patent law, a principle allowing a court to hold a party liable for patent infringement even if the specific method is not identical.
- **Use:** Applied to ensure

fair protection of innovations.

28. **En Banc**

- **Meaning:** Referring to a case being heard by all the judges of a court rather than a panel.
- **Use:** Used in appellate review when significant legal issues are at stake.

29. **Escheat**

- **Meaning:** The reversion of property to the state when an individual dies without heirs or a will.
- **Use:** Central in probate

and property law to resolve unclaimed estates.

**30. Estoppel**

- **Meaning:** A legal principle preventing a party from asserting something contrary to what is implied by their previous actions or statements.
- **Use:** Widely Used in contract, property, and tort law to maintain consistency and fairness.

**31. Exoneration**

- **Meaning:** The act of clearing someone from

blame or liability.

- **Use:** Used in civil liability cases to show that a party is not responsible for damages.

**32. Ex Parte**

- **Meaning:** Legal proceedings conducted for the benefit of one party without the other party being present.
- **Use:** Often utilized in obtaining temporary orders or injunctions when immediate action is necessary.

**33. Fiduciary Duty**

- **Meaning:** An obligation to act in the best interest of another party.
- **Use:** Central in trust, corporate, and agency relationships where one party's actions significantly impact another's interests.

**34. Forbearance**

- **Meaning:** The act of refraining from enforcing a right or claim.
- **Use:** In contract law, forbearance may modify obligations or delay

performance without forfeiting rights.

## 35. Forum Non Conveniens

- **Meaning:** A doctrine allowing courts to dismiss a case when another court or forum is substantially more appropriate for resolving the dispute.
- **Use:** Common in international or multi-jurisdictional cases to avoid inconvenience and promote judicial efficiency.

## 36. Garnishment

- **Meaning:** A legal process that directs a third party (such as an employer) to withhold funds for the satisfaction of a debt.
- **Use:** Utilized in civil debt recovery and enforcement of judgments.

## 37. Injunction

- **Meaning:** A court order requiring a party to do or refrain from doing specific acts.
- **Use:** Widely Used to prevent ongoing or

imminent harm in property, contract, and tort disputes.

**38. Interpleader**

- **Meaning:** A legal procedure in which a party holding property (or funds) asks the court to decide between two or more claimants.
- **Use:** Employed to resolve disputes over the rightful recipient of contested assets.

**39. Inter Vivos**

- **Meaning:** Latin for "between the living,"

referring to transfers or gifts made during one's lifetime.

- **Use:** Common in estate planning and gift transactions.

**40. Lis Pendens**

- **Meaning:** A notice filed in the public records indicating that a property is subject to a pending lawsuit.
- **Use:** Protects a party's interest in a property while litigation is ongoing.

**41. Novation**

- **Meaning:** The substitution of a new

contract in place of an old one, with the consent of all parties involved.

- **Use:** Used in contract law to transfer obligations or rights without breaching the original agreement.

## 42. Nunc Pro Tunc

- **Meaning:** "Now for then" – a judicial correction to record events as if they had occurred at an earlier time.
- **Use:** Employed to rectify clerical errors or

procedural mistakes affecting the legal record.

**43. Pari Passu**

- **Meaning:** "Equal footing" – Used to describe situations where multiple parties share equal rights or claims.
- **Use:** Frequently appears in bankruptcy, corporate finance, and estate distribution.

**44. Per Stirpes**

- **Meaning:** A method of distributing an estate such that each branch of the

family receives an equal share.

- **Use:** Utilized in wills and probate to ensure equitable inheritance among descendants.

## 45. Quasi-Contract

- **Meaning:** A legal construct imposed by courts to prevent unjust enrichment, even though no formal contract exists.
- **Use:** Provides relief in situations where one party benefits at another's

expense without a formal agreement.

**46. Res Ipsa Loquitur**

- **Meaning:** "The thing speaks for itself" – a doctrine allowing negligence to be inferred from the very nature of an accident.
- **Use:** Applied in tort cases where direct evidence of fault is lacking but the incident would not normally occur without negligence.

**47. Res Judicata**

- **Meaning:** A principle

that prohibits the same issue from being litigated more than once once it has been finally decided.

- **Use:** Ensures finality in litigation and prevents repetitive lawsuits.

**48. Replevin**

- **Meaning:** A legal remedy to recover personal property wrongfully taken or withheld.
- **Use:** Common in disputes over possession of movable assets.

**49. Subrogation**

- **Meaning:** The process by which one party assumes another's legal rights to collect a debt or claim.
- **Use:** Often seen in insurance and surety contexts when an insurer seeks reimbursement from a third party.

**50. Sui Generis**

- **Meaning:** Unique or of its own kind; not classified with others.
- **Use:** Applied in property or intellectual

property law to describe categories that do not fit traditional classifications.

**51. Tortfeasor**

- **Meaning:** A person or entity that commits a wrongful act leading to civil legal liability.
- **Use:** Central in tort law to identify the responsible party for damages.

**52. Usufruct**

- **Meaning:** The right to enjoy the Use and advantages of another's property without altering its

substance.

- **Use:** Common in civil law jurisdictions, particularly in contexts of inheritance and property rights.

**53. Writ of Mandamus**

- **Meaning:** A court order compelling a public agency or official to perform a duty that is mandated by law.
- **Use:** Utilized in administrative law to enforce legal obligations when officials fail to act.

## 54. Writ of Prohibition

- **Meaning:** An order directing a subordinate court or tribunal to cease proceedings beyond its jurisdiction.
- **Use:** Employed to prevent judicial overreach and ensure that lower courts do not exceed their authority.

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