

Law of Contract I

Tewodros L.

OBLIGATIONS IN GENERAL

- Roman law: means of an undertaking or legally binding relationships where one party promises the other party to perform some acts or to do something.
- a) Obligation to give or not to give
- b) Obligation to do or not to do
- c) Obligation to render rights to others to do something

OBLIGATIONS IN GENERAL

- Black's law dictionary: a legal duty or moral duty to do or not to do something.

- **Sources of obligations**

- Gay, Roman jurist,:
- a) Contract
- b) Beyond the contract (unjust enrichment (quasi-contract), unlawful acts (delict) and causing physical injury to the person or causing damage to property of person (quasi-delict)
- Ethiopian legal system, there are no clearly stated classifications of sources of

OBLIGATIONS IN GENERAL

- Art.1675 of Ethiopian civil code generally expresses obligations as arising from contractual agreements
- non-contractual relationships (from Art.2027-2178),
- Art.2027-2161
- Art.2162-2178
- Obligation arising from the law is a unilateral:
- □ Obligation to pay income taxes
- □ Obligation to render military services
- □ Obligations of creditors
- □ Obligation of debtors
- □ Obligations of families to their children

OBLIGATIONS IN GENERAL

- **Types of Obligations**
- ***Divisible obligation vs. Indivisible obligations***
- ***Positive obligation:*** to do or to give some thing to another
- ***Negative obligations:*** not to do something
- unilateral,
- bilateral, and
- multilateral obligations: simple joint, joint and joint and several obligation
- Simple joint obligation: each debtor is liable for its own share

OBLIGATIONS IN GENERAL

- ***Joint obligations:*** debtors are jointly liable for the debt secured
- Joint and several obligation: co-debtors shall be jointly and severally liable
- **The meaning of contract/contract law**
- Anglo-American legal systems: a promises or set of promises for the breach of which the law gives a remedy or the performance of which the law recognizes in some way as a duty

OBLIGATIONS IN GENERAL

- **Purpose of the contract law**

- primarily concerned with supporting institutions of exchange
- empowers the parties to make agreements that the law will enforce
- creates smooth functioning of business transaction by creating certainty, predictability, and enforceability
- Argument: libertarian (individual as a best judge of their case) vs. the other side (market may not operate efficiently)

OBLIGATIONS IN GENERAL

- **Scope of Contract Law**

- varies from country to country and from legal system to legal systems
- General vs. special
 - **Historical development of contract law**
- expansion of trade and industry inevitable resulting in the increments in the volume of commercial disputes
- economic philosophy, the so called the laissez-faire individualism
- mirrored in the law of contract by two assumptions-freedom of contract and equality of bargaining power

OBLIGATIONS IN GENERAL

- **the role of the courts**
- required to enforce the agreement of the parties, as it was without questions its fairness
- governments do lay down the minimum conditions for an enforceable contract
 - **Economic Analysis of Contract Law**
- if voluntary exchanges are permitted resources will gravitate towards their most valuable uses.
- The basic economic function of contract law is to provide sanction for reneging

FORMATION OF CONTRACTS

- Consent is a declaration of intention to be bound by an obligation