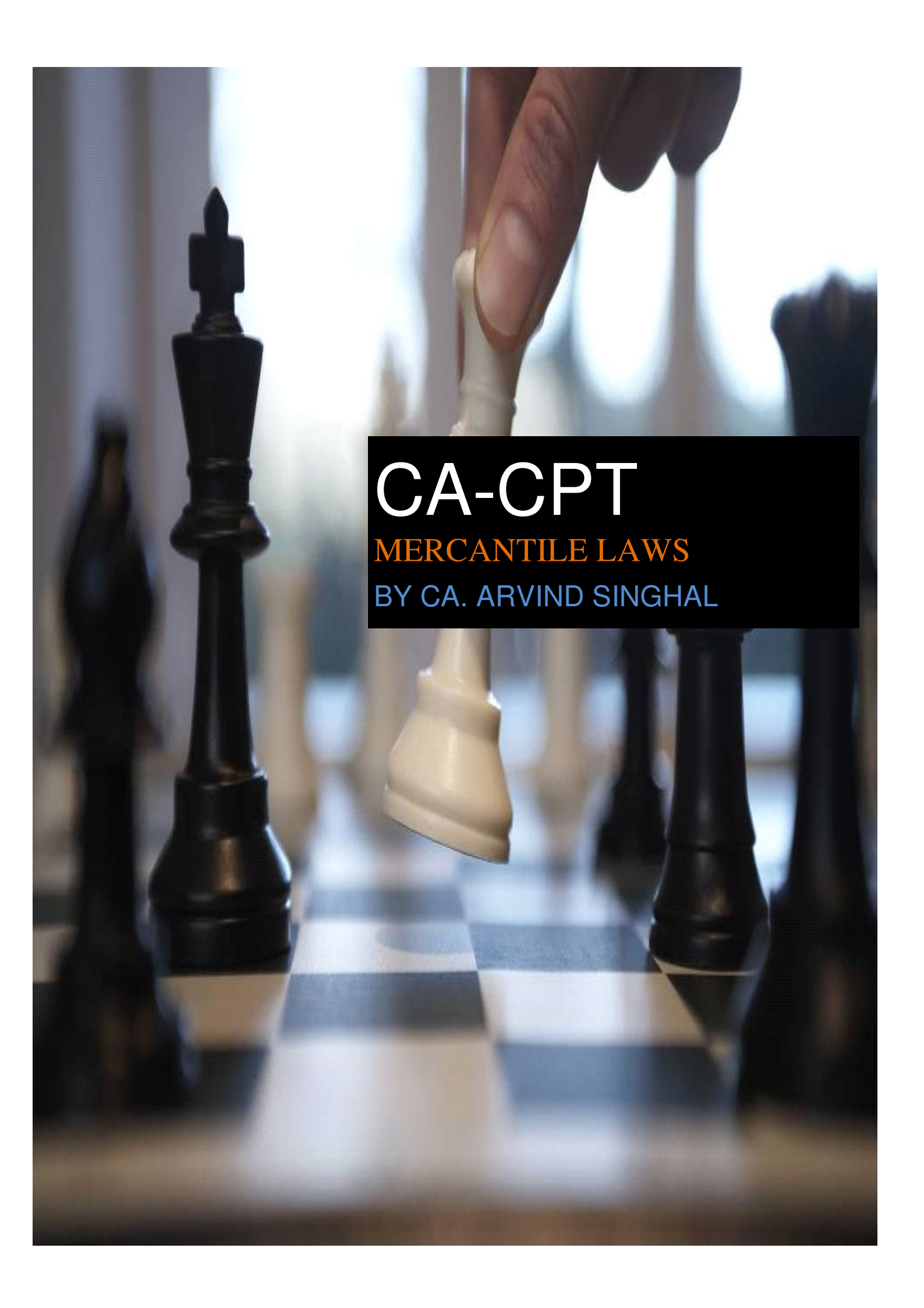


A close-up photograph of a hand moving a white chess piece on a chessboard. The hand is positioned at the top, with fingers gripping the piece. The chessboard is in the foreground, showing alternating light and dark squares. Several black chess pieces are visible in the background, slightly out of focus. The lighting is soft, creating a professional and strategic atmosphere.

CA-CPT

MERCANTILE LAWS

BY CA. ARVIND SINGHAL

CONSIDERATION

2

1.) **CONSIDERATION: - “QUID PRO QUO”** – i.e. something in return. Consideration is the price agreed to be paid by the promisee for the obligation of the promisor.

- ✚ When, at the desire of the promisor,
- ✚ the promisee or any other person
- ✚ has done or abstained from doing or
- ✚ does or abstains from doing or
- ✚ promise to do or to abstain from doing
- ✚ something,
- ✚ such act or abstinence or promise is called consideration for the promise.[Section 2(d)]

2. LEGAL REQUIREMENTS REGARDING CONSIDERATION

A. Consideration must move at the desire of the promisor

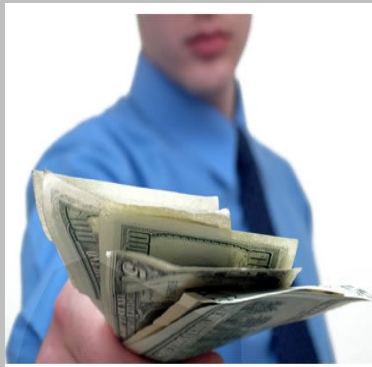
- ✚ Consideration must move at the desire or request of the promisor.
- ✚ Any act done at the desire of a third party is not consideration.

Example:-

- D constructed a market at the desire of the collector of the district.



- B, a shopkeeper of the market promised to pay commission to D on the sales effected by him.



- Later on B denies to pay the promised amount.



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- D filed a suit in the court for the recovery of the amount.



- The court held that D cannot recover the amount from B because D has constructed the market at the desire of the collector, not at the desire of the promisor i.e. B. (**Durga Prasad V. Baldeo**)

B. Consideration may move from the promisee or any other person

- ✚ So long as there is consideration for promise, it is immaterial as to who has furnished it.
- ✚ If a party receives consideration, the contract is valid, even though the person furnishing the consideration is not a party to the contract.
 - ✓ Where a third party furnishes the consideration, it is valid consideration.
 - ✓ Consideration may move from the promisee or any other person who is not a party to the contract.
 - ✓ Thus, **there can be a stranger to a consideration.**

Note

This rule is generally stated as '**Privity of consideration is not required**'.

Example:-

- A, by a deed of gift transferred certain property to her daughter with the direction that daughter should pay an annuity to her sister.



- The daughter executed a deed in writing in favour of her sister agreeing to pay the annuity.



- Later on, she refused to pay the amount to her sister taking a plea that no consideration is given to her in return from her sister.

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	➤ The court held that consideration need not necessarily move from the promisee. ➤ Hence, she is bound to pay the promised amount to her sister. (Chinnayya V. Rammayya)		
C. Executed and Executory consideration	➤ If consideration under the contract has been given, it is said to be executed. ➤ If consideration under the contract is to be moved in future, it is called executory consideration.		
D. Consideration may be past, present or future	<table> <tr> <td data-bbox="368 1095 544 1189"> Past consideration </td><td data-bbox="549 1095 1358 1189"> ➤ The words “has done or abstained from doing” indicates past consideration. ➤ Past consideration is no consideration in England. </td></tr> </table>	Past consideration	➤ The words “has done or abstained from doing” indicates past consideration. ➤ Past consideration is no consideration in England.
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Future consideration

- ✓ The words “**promise to do or to abstain from doing**” indicate future consideration.
- ✓ Consideration which is to be performed in future.

Example:-

- A get booked an air ticket from Delhi to Mumbai.



- The flight is to be take off on the next day.



- In this case the consideration from A is a Past consideration and consideration is pending on the part of Airlines which is to be performed in future.

E. Consideration should be real, not illusory

- Consideration received by a party must be of some value.
- Consideration must not be illusory (i.e., existing in name).
- If consideration is an illusory one, then it is not valid.
- For Example
A said to B that if he will paint his house he will give him Rs. 2,00,000 from the treasure if found by him.

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F. Consideration need not be adequate

- ✓ The law requires that there must be consideration in every contract.
- ✓ However, **adequacy of consideration is not required.**
- ✓ Even if it is proved that such consideration is inadequate, the contract is not void.
- ✓ The fact of inadequacy of consideration shall be given due weightage while determining whether the consent of the promisor was freely given or not.
- ✓ In other words it is at the part of promisor to consider that whether he is receiving adequate consideration or not.

G. Performance of what one is legally bound to perform

- ✚ The performance of an act what one is legally bound to perform is not consideration for the contract.
- ✚ It must be different from promisor's existing obligation.

Example:- Hence Promise to pay money to a witness is void.

H. Consideration must not be

- Unlawful
- immoral or,
- opposed to the public policy

End of the Topic

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