

LAMPIRAN

Lampiran 1

Gambarajah Perbezaan dan Persamaan di Antara Tiga Perundangan Mengenai *Ghalat*

Perkara	Undang-undang Islam	Undang-undang Malaysia	Undang-undang Mesir
Definisi	Ditil	Tidak ditil	Ditil
<i>Ghalat</i> pada barangan	Batal dan <i>khiyār</i>	Batal	Tidak batal
<i>Ghalat</i> pada individu	Batal	Boleh batal	Boleh batal
<i>Ghalat</i> pada harga	Boleh batal dan fasakh	Boleh batal	Boleh batal
<i>Ghalat</i> pada undang-undang	Batal	Boleh batal	Boleh batal

LAWS OF MALAYSIA

Act 136

CONTRACTS ACT, 1950

(Revised—1974)

CONTRACTS

ILLUSTRATIONS

(a) *A*'s son has forged *B*'s name to a promissory note. *B*, under threat of prosecuting *A*'s son, obtains a bond from *A* for the amount of the forged note. If *B* sues on this bond, the court may set the bond aside.

(b) *A*, a moneylender, advances \$100 to *B*, an agriculturist, and, by undue influence, induces *B* to execute a bond for \$200 with interest at 6 per cent per month. The court may set the bond aside, ordering *B* to repay the \$100 with such interest as may seem just.

21. Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.

Agreement void where both parties are under mistake as to matter of fact.

Explanation—An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement is not to be deemed a mistake as to a matter of fact.

ILLUSTRATIONS

(a) *A* agrees to sell *B* a specific cargo of goods supposed to be on its way from England to Kelang. It turns out that, before the day of the bargain, the ship conveying the cargo had been cast away and the goods lost. Neither party was aware of the facts. The agreement is void.

(b) *A* agrees to buy from *B* a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

(c) *A*, being entitled to an estate for the life of *B*, agrees to sell it to *C*. *B* was dead at the time of the agreement, but both parties were ignorant of the fact. The agreement is void.

22. A contract is not voidable because it was caused by a mistake as to any law in force in Malaysia; but a mistake as to a law not in force in Malaysia has the same effect as a mistake of fact.

Effect of mistake as to law.

ILLUSTRATION

A and *B* make a contract grounded on the erroneous belief that a particular debt is barred by limitation: the contract is not voidable.

23. A contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

Contract caused by mistake of one party as to matter of fact.

Revised up to 1st April, 1974

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