

# ASPECTS OF CONTRACT AND NEGLIGENCE FOR BUSINESS



Lecturer: Judith Robb-Walters

Lesson 6



- **ASPECTS OF CONTRACT AND NEGLIGENCE FOR BUSINESS**

- LO 2: Be able to apply the elements of a contract in business situations

- September – November 2014

# The Basic Syllabus



- Understand the essential elements of a valid contract in a business context.
- Be able to apply the elements of a contract in business situations.
- Understand principles of liability in negligence in business activities
- Be able to apply principles of liability in negligence in business situations.

# LEARNING OBJECTIVES



- At the end of the class, students should be able to:
  - evaluate the effect of different terms in given contract

# OVERVIEW



Contracts will always contain different types of terms (said or written), some more important than others. The more important terms are called “conditions”, the less important terms are called “warranties”.

Conditions are so important that without them one or other of the parties would not enter into the contract.

Consequently, to make a condition falsely, or to breach a condition, is viewed so seriously that the wronged party will be entitled to treat the contract as void, voidable or at least rescinded.

Where the term is a warranty, the wronged party will only be able to seek monetary damages for any loss suffered. The contract itself will remain binding on both parties.

[www.lawhandbook.org.au/](http://www.lawhandbook.org.au/)

# CONTENTS OF CONTRACT



In relation to the contents of a contract explain the following:-

- Terms
- Conditions
- Warranties
- Innominate terms

# TERMS OF CONTRACT



‘The essential flexibility, or fatal uncertainty, of innominate terms stems from the fact that it is not possible to predict before the of the breach what the legal effects of the breach of such term will be’  
(Downes)

Do you consider that innominate terms create an unacceptable level of uncertainty in contract law?

# REMEDIES AND DAMAGES



June entered into a contract with Build Ltd. To construct a wall around the garden of a house she had just purchased. The wall was to be three meters high to block out a view of a rubbish skip. The wall was due to be finished in May and June entered into another contract with Paul to landscape the garden starting on June 1.

Build Ltd. Finished the wall on may 25. However when June came to examine it for the first time she found that it was only 2.5m high and that the rubbish skip was still visible from the top of the garden.

On June 1, Paul informed June that he was too busy to landscape her garden and that she would have to get someone else to do it. The only person available, however, will charge June \$500 more than Paul had agreed for doing the work.

Required

Anaylse the scenario from the perspective of the law of contract, advising June:

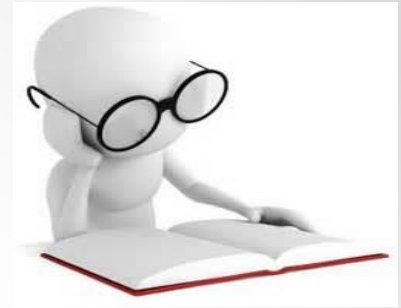


# REMEDIES AND DAMAGES



- Required
- Analyse the scenario from the perspective of the law of contract, advising June:
  - (a) Whether she can require Build Ltd, to reconstruct the garden wall in order to make it agreed height, and if not, what alternative action is available to her.
  - (b) Whether she can require Paul to undertake the work on the garden, and if not, what alternative action is available to her.

# Further readings



- **The law of obligations 4: Formation of contracts I**  
**ACCA BPP F4**
- **Contract Law - Catherine Elliott and Frances Quinn**
- The Victorian Law Handbook - Fitzroy Legal Service.  
2014. *The Victorian Law Handbook - Fitzroy Legal Service*. [ONLINE] Available  
at: <http://www.lawhandbook.org.au>. [Accessed 31  
October 2014].