



Concept Building

Sell CAR

CJ

POR



sell

DJ

pe



₹₹₹

50,00,000

ACTUAL Performance



ATTEMPTED Performance

OFFER TO PERFORM

2) CJ → Call (x)

POR



Call → SHIMLA (1M.)

pe = Refuse



SECTION 37 :-



Actual :- When one or both the parties have fulfilled their obligation within time & manner prescribed



Attempted / offer / Tender

When promisor offers to perform but the promisee refuses to accept the performance

↓
effect (Section 38)

Promisor is not liable for the non-performance

Meaning

unless dispensed or excused by ICA or any other law.

Types

PERFORMANCE

↓
Fulfilment of obligation

of

Respective

Promises

which can be either performed actually or offer to perform.



If valid offer to perform then
POR is not responsible for Non-P

SEC. 38 :- Conditions to be fulfilled for
VALID offer to Performance

U. R. whole Time Pass

- (1) Unconditional U
- (2) Proper Time / Place T/P
- (3) Reasonable opp. to examine R
- (4) Whole obligation = Sec. 39 Whole

Example :-



★ Summary Sheet Job [By whom the contract will be performed]

★ (1) By PROMISOR himself :- when the contract specifies that performance must come from the POR. It happens in the case where contract involves personal skill / Trust / Diligence.

★ (2) By an Agent :- Agent can also perform except TDS

(3) By Legal Representative :- Two cases :-

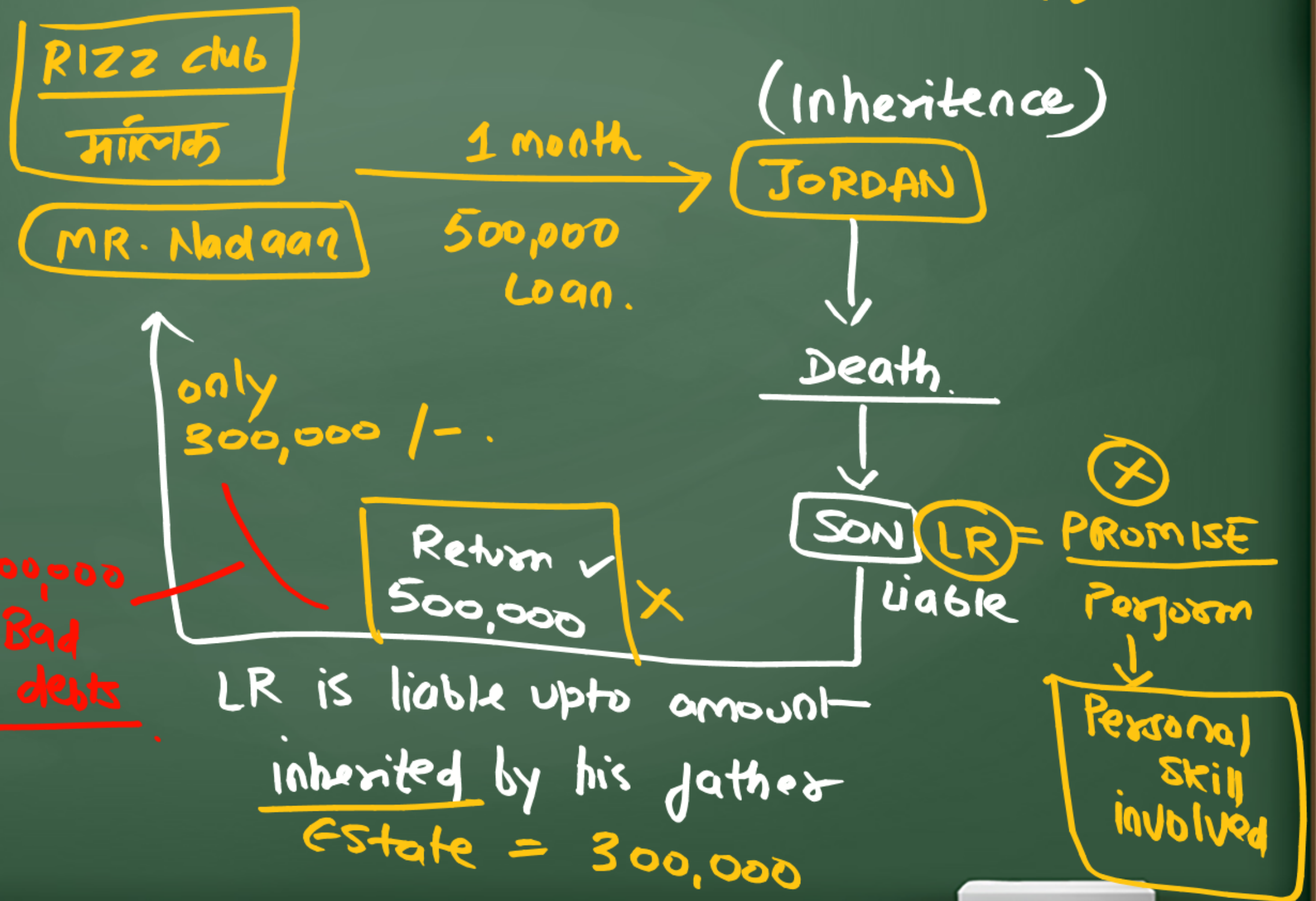
(a) where TDS is involved - He cannot perform.

(b) Any other contract = YES but liable upto inherited amount only.

41 (4) By a III party :- Performance can be accepted from stranger / III
But once accepted POR will be discharged & pee can't enforce the contract against him [Doesn't matter - Given authorization or not.
If POR has - Knowledge or not]

★ Special case Jor LR = He will have to fulfil obligation in this situation

★ Concept
★ building
★



41 Performance from III Person.

Concept Building



If pee accepts performance from a III party then pee can't enforce promise on POR even if POR was not aware or he did not authorize it.

★ Summary sheet for Liab. of Joint Promisor & Promisee :-

★ Sec. 42 :- Devolution of Joint Liabilities :-

★ All joint promisors shall fulfill their obligation jointly but if any of the joint promisors dies then his LR with other surviving POR will fulfill the promise. If all POR die then all LR will fulfill the P.

Need for sec. 43 :- In sec. 42 all joint-POR were fulfilling their promise voluntarily but what if anyone violates?

Sec. 43 :- (1) All the POR are jointly & severally liable to PEE.

(2) Any one POR can be compelled by PEE to perform the whole obligation (unless otherwise specified in the contract)

(3) Each Joint POR can compel other to contribute equally

Continuation...

Unless specified otherwise in the contract.

★ (4) Sharing of loss/default :- If any one POR defaults or fails to contribute (eg: Insolvent) then others will bear the loss equally.

★ SEC. 44 :- Effect of Release of Joint POR :-

(1) A release of one joint POR by pee does not discharge other joint promisor to pee.

(2) It does ^{NOT} release such joint POR from his liability towards other Joint POR

Sec. 45 :- Right of Joint pee :-

When a person promises to two or more (joint pee) then such person will be liable to all joint pee during their lives & after death to their LR. In case all joint pee die then all LR have right to recover from POR



SEC. 55

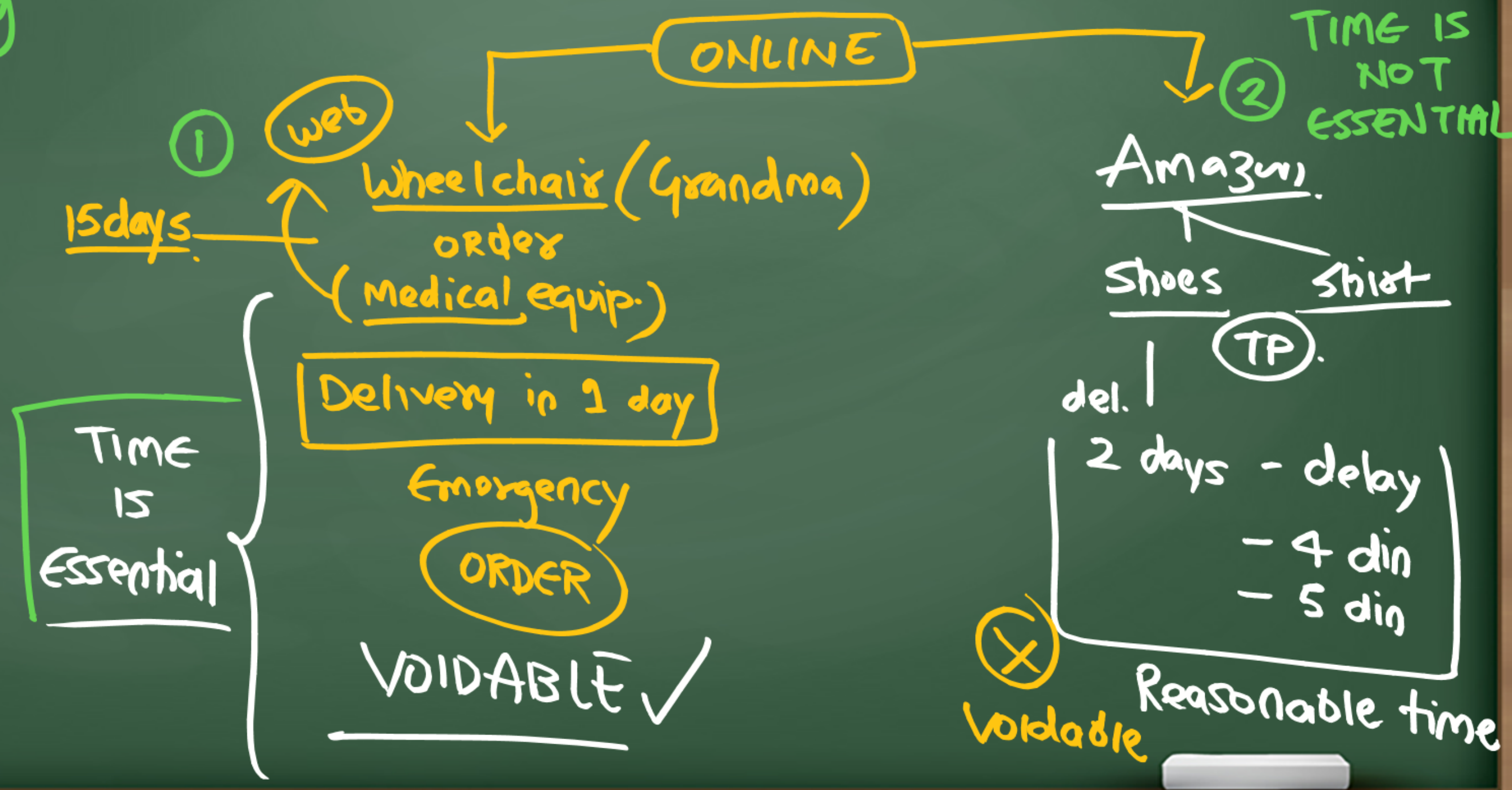


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③ Delayed performance

2 — 10 days / once accepted = No compensation.
unless notified the other party @ time of acceptance

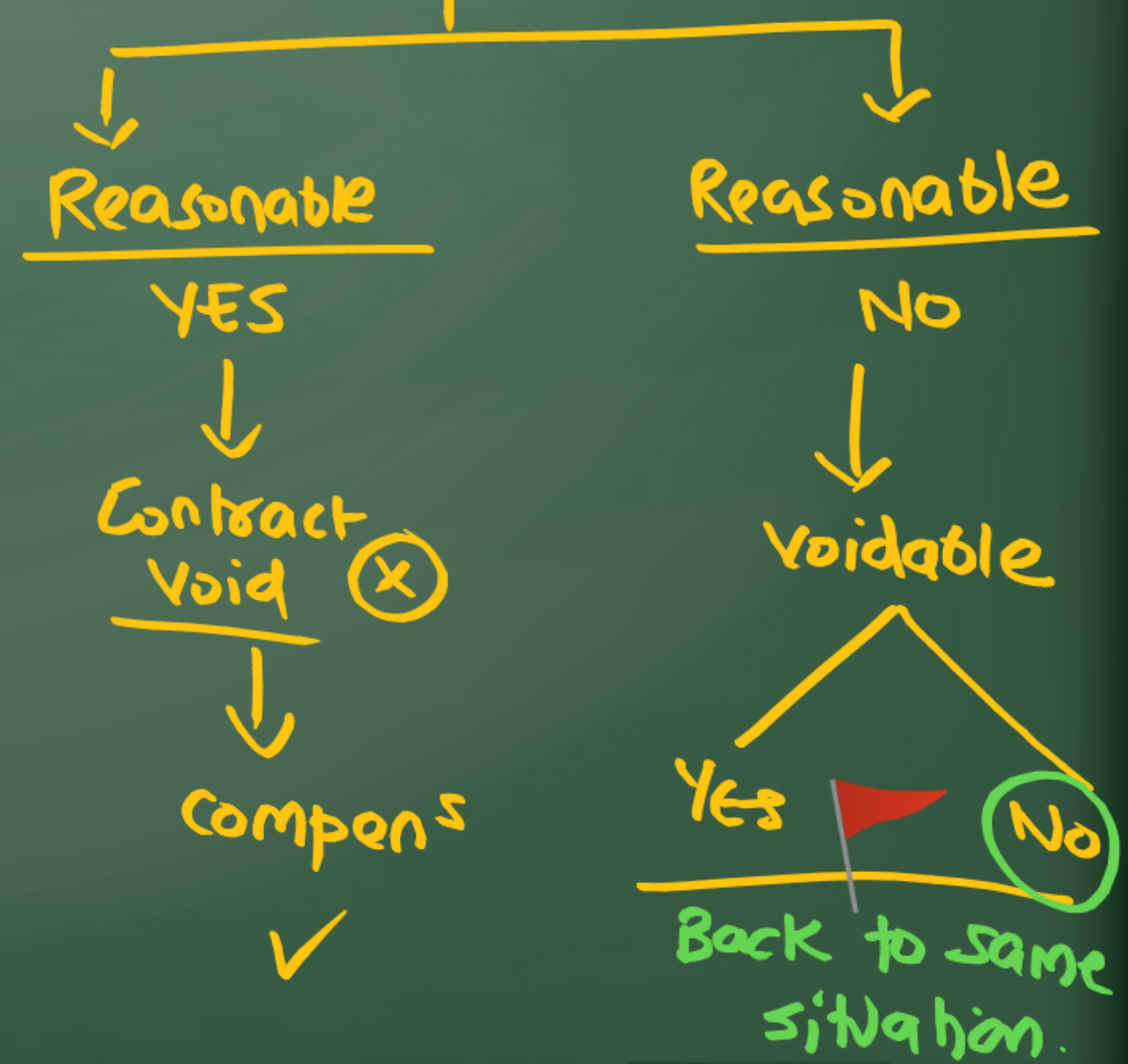
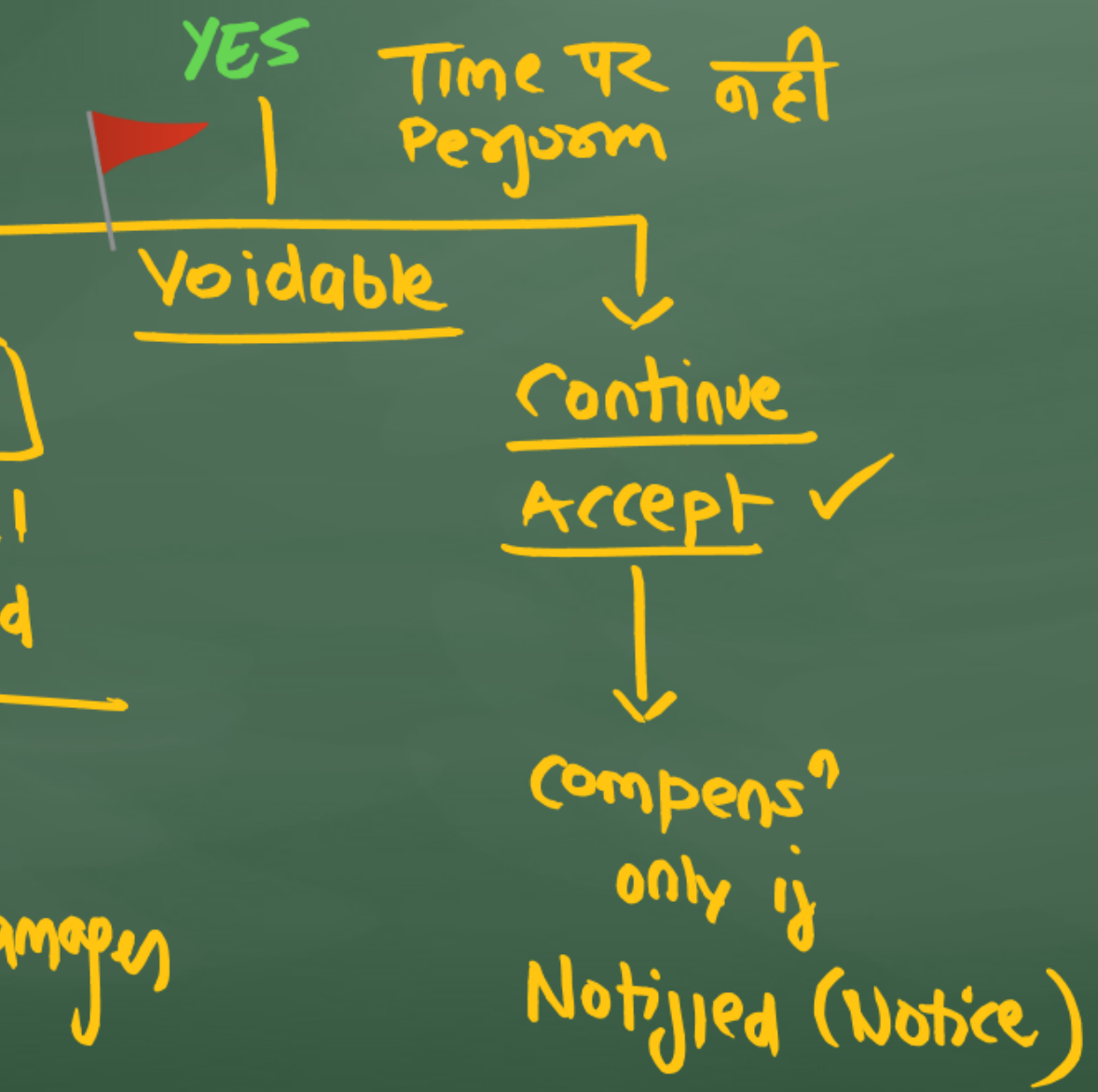


★ SEC. 55

★

★

Essence



When Time is Essential

When Time is Not Essential

Acceptance of Delayed Performance

If time is essential and the promisor fails to perform at the specified time,

If time is not crucial

If the promisee accepts performance after the agreed time,

the contract becomes voidable at the option of the promisee.

failure to perform on time doesn't make the contract voidable,

they can't claim compensation for the delay

but the promisee can claim compensation for any loss caused by the delay.

unless they notify the promisor at the time of acceptance of their intent to do so.

✓ YES.



At the time of making the contract.

IMPOSSIBILITY

valid in
void in



Initial / Existing
(Impossible by Nature)

Subsequent, Supervening,
(Post Contract)

At the time of contract

After entering the contract

Void Agreement

Void Contract

Both the parties are discharged

Changes in law, illegal, natural disaster, change in circumstances

See next Page.

Scenarios of Initial Impossibility

| | |
|---|---|
| Known to Both Parties | If both the promisor and promisee are aware of the impossibility, the contract is void |
| Unknown to Both Parties X | If both parties are unaware of the impossibility, the contract is still void |
| ONLY PROMISOR Known Only to the Promisor | If the promisor alone knows or should have known (with reasonable diligence) about the impossibility, the promisee can claim compensation for any loss due to non-performance |



★ Time & Place of Performance :- 46/47/48 :-

★ Time = If given in the contract - [Date & Time] both = Follow that

No Application from Pee

| | Date ✓ | TIME |
|-----------------------------|--------|------|
| Case 1 :- Ideal case :- | YES | YES |
| Case 2 :- BIZ hours - | YES | No |
| Case 3 :- Reasonable Time - | No | No |

sec. 47

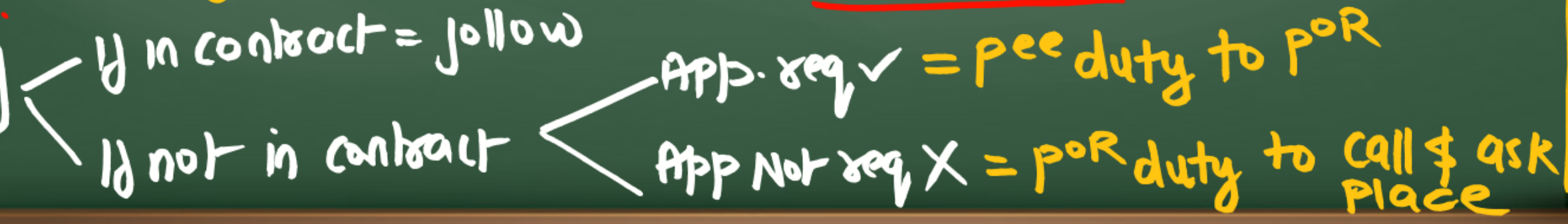
SEC. 46

When App. from Pee is Required

Case 4 :- pee ki duty ✓ = Performance will be according to given date / Time. (eg: Pest control)

Sec. 48

49
Place



EQ:
POR - CRMA
TV
pee - CJ

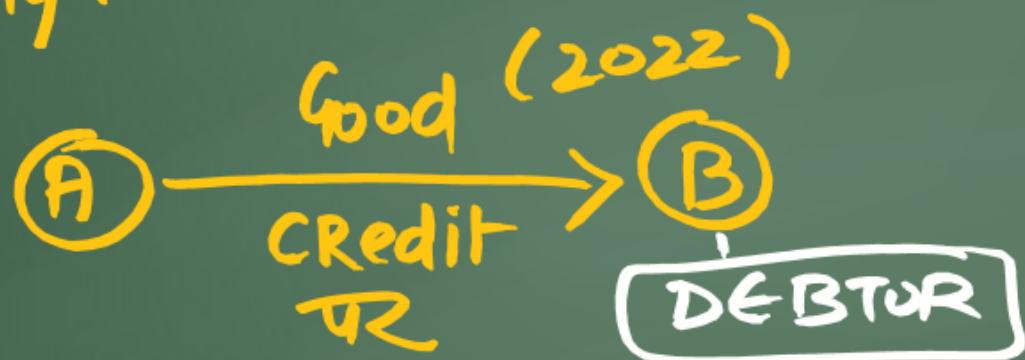
Steps to follow -

- ① फल contract?
- ② फल customer pee = App. की / required
- ③ ✓ Reasonable Date / time.

★ APPORTIONMENT OF PAYMENT

concept building :-

Example ↓



Time barred

| YR | Date | Amount | Status |
|------|---------|--------|------------|
| 2017 | 10/09 ✓ | 50,000 | YES |
| 2018 | 12/09 ✓ | 15,000 | |
| 2022 | 01/10 ✓ | 30,000 | Disputed ← |
| | 5/10 ✓ | 15,000 | |
| | 5/10 | 30,000 | |

1:2 settle
10,000
20,000

2022

B — Payment — A

(1) 30,000 - specify मित

59 express - 10/09 → set off.

implied - automatically
- 01/10 = 30,000

(2) debtor (x) मित / silent

60 creditor (✓) = Discretion

TBD = settle = yes

Disputed = Not allowed.

(3) DR (x) | LAW | order of Time
61 CR (x)

equal footing = proportionately
Same date

★ CONTRACTS which need not be Performed :-

★ **SEC. 62 = RESCISSION** = Existing contract - Rescind/Cancel
= Mutual consent ✓
= Both the parties are discharged.
★ **Valid contract** **Voidable contract** } → **66** → Needs to be communicated to the other party.

⇒ **NOVATION** = New contract replaces/substitutes the old contract
= old contract discharged & parties are not bound by it.
= It involves **MAJOR** changes (EXISTING या New) (दोनों हो सकते हैं)
= New Parties can also be a part of new agreement.

⇒ **ALTERATION** = Modification in the Existing contract.
= **No** new contract takes place
= **MINOR** changes = PARTIES do not change.

★ **SEC. 63** = **REMISSION**

- waiver of the whole / partial promise
- waiver can be in the form of Amount or time (Extend)
- Both the parties have accepted an alternative satisfaction with mutual agreement.
- which will result in discharge of contract by remission.

★ **SEC. 64** - Restore the benefit received under voidable contract.

- If any (अगर हुआ हो तो) - Who? = Rescinding party

★ **SEC. 65** - Restore / compensate the benefit recd under void ^{agreement-} contract.

Case-Study.

- To bring back both the parties in Pre-contract position.

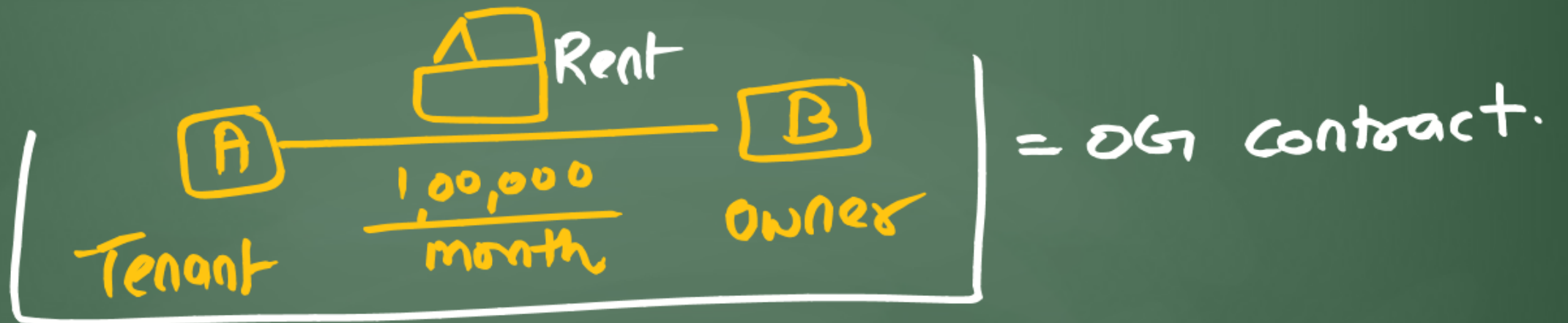
↳ In a case where money was given as a security / deposit → Not a Benefit

★ **SEC. 67** → If Promisee fails to provide reasonable facilities to Promisor then POR is not liable for non-performance

★ → Concept building. Job Novation (examples)



A = liab. = End old contract

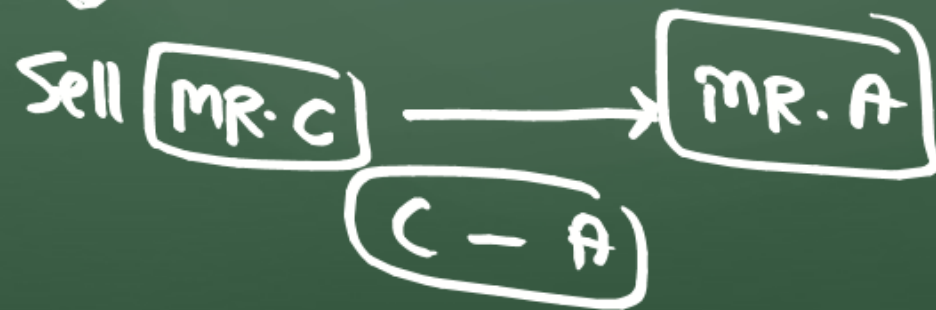


Major changes

① Subject matter = Plot 51 sell → Plot 52 shift

② Party change

MR. B = USA





COMPARISON = Novation & Alteration

In both these cases the original contract need not be performed ✗

NOVATION

- Substitutes a completely new contract.
- May change the parties involved in the contract.

ALTERATION

- Modifies existing terms without creating a new contract. ✗
- The original parties to the contract continue unchanged.

OM-PILT BRWN



- 1. O - OPERATION OF LAW - death/Insolvent
- 2. M - MUTUAL AGREEMENT - sec. 62 - NARR = 63
- 3. P - PERFORMANCE Actual offer to perform / tender.
- 4. I - IMPOSSIBILITY Initial
- 5. LT - LAPSE OF TIME Supervening [BF story, VL, D-SM, Non-Ex, PI, war]
→ TBD (limitation)
- 6. B - BREACH OF CONTRACT → unit - 5 Actual
- 7. R - RIGHTS (MERGER) Anticipatory
- 8. W - WAIVER OR REMISSION - (63)
- 9. N - NEGLECT OF PROMISEE - (67)