



Limitation Act

S.18, S.19 Limitation Act vis-a-vis S.25 of the Contract Act :

There is a lack of proper understanding of the aforesaid provisions which deal with limitation for filing of the suit. This note is to clarify the same. I am quoting below the said Sections -

1] Sec. 18 of the Limitation Act: Effect of acknowledgement in writing.

(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.

(2) Where the writing containing the acknowledgement is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.

Explanation.—For the purposes of this section,— (a) an acknowledgement may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right, (b) the word “signed” means signed either personally or by an agent duly authorised in this behalf, and

(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

2] S.19. Effect of payment on account of debt or of interest on legacy.—

Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made: Provided that, save in the case of payment of interest made before the 1st



day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

Explanation.—For the purposes of this section,— 9 (a) where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment;

(b) “debt” does not include money payable under a decree or order of a court.

3] S.25 of Indian Contract Act

25. Agreement without consideration, void, unless it is in writing and registered, or is a promise to compensate for something done or is a promise to pay a debt barred by limitation law.—An agreement made without consideration is void, unless—

(1) it is expressed in writing and registered under the law for the time being in force for the registration of 1 [documents], and is made on account of natural love and affection between parties standing in a near relation to each other ; or unless (2) it is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless;

(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits. In any of these cases, such an agreement is a contract.

Explanation 1.—Nothing in this section shall affect the validity, as between the donor and donee, of any gift actually made.

Explanation 2.—An agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate; but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given

On analysing the aforesaid provisions with commentary thereon and case law the following position emerges :

- 1) S.18 of the Limitation Act deals with an acknowledgement of liability made before expiration of the prescribed period by a party



made in writing and signed by the party resulting in commencement of fresh period of limitation.

2) S.19 of the Limitation Act deals with payment on account of a debt made before the expiration of the limitation period resulting in a fresh period of limitation beginning therefrom. Further more such a payment must be acknowledged by some form of writing by the person making the payment.

3) While u/s 18 of Limitation Act the writing must carry an admission of subsisting liability, all that s.19 requires is that the writing should record fact of payment.

Sometimes a writing u/s 19 can also be an acknowledgement u/s18.

4) S.18 applies to any right or property while s.19 covers cases of debts and legacies only.

5) Under S.18 the acknowledgment should be signed by the person while u/s.19, it may suffice if the payment is acknowledged in the handwriting of the person without the need of his signature.

6) S.25(3) of the Indian Contract Act deals with a fresh promise to pay a debt which is already barred by limitation.