

Law On Obligations And Contracts Hector De Leon Pdf 13 _TOP_

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 2012-01-15 12:30:09 CHAPTER 3
LAW OF OBLIGATIONS In the event that the conditions for nonperformance have occurred, a will be triggered in the cases stated above. This condition is satisfied if the person who has the duty not to perform his obligations knows that he is not able to perform it. It can be said that a nonperformance is willful if, having the full facts, and being aware that it has absolutely no legal excuse to cause such non-performance, the person who has the duty not to perform his obligations nevertheless does not perform. A duty is not absolute or perfect, and once any of the conditions for nonperformance has been satisfied, the breach of the duty will be held to be wilful. The breach of a contract is called "wilful" when the breach is deliberately and voluntarily caused by the person who is obligated to perform it, and if such person was aware of his obligation and that he would be violating a duty to perform it. Where the person who has the

duty not to perform his obligations has a legal excuse (also known as an impediment), the breach will not be considered wilful, but will be considered an act of “excusable non-performance” if the breach of the duty was not deliberate and voluntary. If the conditions for non-performance have not occurred, the duty to perform will be established by operation of law in the specific circumstances established by the contract. This duty will also not be considered a breach if the person who has the duty not to perform his obligations does not know, or has not the ability to know, whether he will be able to perform his obligations. Under New York Law, a contract is created where the parties mutually consent to be bound by their promises and if a certain amount of offer and acceptance is possible.¹⁴ Accordingly, for the formation of a contract, it is necessary that the parties to the contract intend to be bound.. [note 2, page 15]. The conditions of mutuality. On the nature of the condition. At the time of the formation of the contract, it is necessary that, “at the time of the formation of the contract, at the time of the formation of the contract, the parties to the contract intend to be bound by its terms.”¹⁵ The interpretation and meaning of these words must be considered from the standpoint of the parties to the contract.¹⁶ The parties may bind themselves to any or all the terms of

the contract,

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