

TU 122 LAW IN EVERYDAY LIFE

**CONTRACT LAW
(1-2)**

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Initial Remarks

Obligations (หนี้) *vs* Property (ทรัพย์สิน)

Obligatory rights (สิทธิทางหนี้/บุคคลสิทธิ) *vs* Real Rights (ทรัพย์สินสิทธิ)


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Obligations

- Obligations are a legal relationship between two parties called “**Creditor**” and “**Debtor**”.
- Obligations create rights and duties:
Creditor – right to claim (สิทธิเรียกร้อง)
Debtor – duty to perform (หนี้/หน้าที่ต้องชำระหนี้)


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 **Obligations**




Creditor Debtor

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 **Obligations**

Section 214 of Thai Civil and Commercial Code (TCCC)
“...the creditor is entitled to have his obligation performed out of the whole of the property of his debtor including any money and other property due to the debtor by third person.”


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 **Property**

Section 138 TCCC
“Property includes things as well as incorporeal objects, susceptible of having a value and of being appropriated.”


Real rights, notably ownership and possession, are rights over property.

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 **Property**


Section 1336 TCCC
“Within the limits of law, the owner of property has the right to **use** and **dispose** of it and **acquires its fruits**; he has the right to **follow** and **recover** it from any person not entitled to detain it, and has the right to **prevent** unlawful interference with it.”

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 **Distinction between Obligations and Property**

1) Real right depends on the thing which is the subject of right. Obligations do not depend on things.
2) Obligations impose duty on the debtor only. Real right imposes duty on everyone in society not to interfere.

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 **Sources of Obligations**

1) Contracts
2) Tort (delict or wrongful act)
3) Unjust enrichment
4) Management of another’s affairs
5) Statutory obligations, for example, tax


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 **Sources of Obligations**


1) Contracts
An agreement between two or more parties creating legal relations between them




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 **Sources of Obligations**


2) Tort (delict or wrongful act)
A wrongful act or omission injuring the life, body, health, liberty, property or any right of another person




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 **Sources of Obligations**

3) Unjust enrichment
When a person obtains something to the prejudice of other person without legal grounds.




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 **Sources of Obligations**

4) Management of another's affairs
When a person takes charge of an affair for another without having received any mandate.

5) Statutory obligations
for example, tax




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 **Exercise**

What source of obligations provides a legal basis for this claim?

Mickey punched Donald in the face. So, Donald claims damages from Mickey.




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 **Exercise**

What source of obligations provides a legal basis for this claim?


Belle, a housemaid, voluntarily paid an electricity bill for Jasmine, a house owner, because Jasmine forgot to pay. Belle demands reimbursement from Jasmine.

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 **Exercise**

What source of obligations provides a legal basis for this claim?

Christopher hired Pooh to sing in his birthday party. Pooh demands Christopher to pay for his performance.




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 **Exercise**

What source of obligations provides a legal basis for this claim?

Mufasa paid back his debt to a creditor without knowing that his son, Simba, has already repaid his debt on his behalf. So, Mufasa demands his payment back from a creditor.


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 **Exercise**

What source of obligations provides a legal basis for this claim?


Anna bought a dress online from Olaf. The dress delivered to Anna has several defects. So, Anna demands Olaf to repair or replace the dress.

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 **Exercise**

What source of obligations provides a legal basis for this claim?

A wife claims maintenance from her husband.




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 **Exercise**

What source of obligations provides a legal basis for this claim?

A flowerpot fell from a balcony of Ariel's room on the second floor of an apartment and smashed against a car of Eric. Eric claims compensation from Ariel.




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 **Exercise**

What source of obligations provides a legal basis for this claim?

Minnie found Daisy's lost dog, so she fed it and brought it back to Daisy. Minnie demands reimbursement from Daisy for a cost of dog food.




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FORMATION OF CONTRACT

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Basic Principles of Contract

- The principle of freedom of contract and the main exception:
 - Public order and good morals

Section 150. An act is void if its object is expressly prohibited by law or is impossible, or is contrary to public order or good morals.


Section 151. An act is not void on account of its differing from a provision of any law if such law does not relate to public order or good moral.

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Basic Principles of Contract

- A contract is formed by consent; a contract is formed when an acceptance agrees with an offer.



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graph LR; OFFER --> CONTRACT; ACCEPTANCE --> CONTRACT;
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 **OFFERS**

Characteristics of an Offer

- An offer must be clear and unequivocal.
- An intention to make an offer which is unclear is considered to be an 'Invitation to treat'.




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 **OFFERS**

When does an offer take effect?

- If an offeree is present, an offer takes effect from the time when it becomes known to the offeree.
- If an offeree is *not* present, an offer takes effect from the time when it reached the offeree.




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 **OFFERS**

Effects of an Offer

- An offer lasts for a period specified or a reasonable period, and the offeror cannot revoke the offer before such period ends.
- An offer ceases to be binding if it is rejected, or if it is not accepted within a specified period, or a reasonable period, or at that moment.


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 **ACCEPTANCE**

Characteristics of an Acceptance

- The offeree can accept or decline the offer.
- An acceptance can be made expressly or impliedly.
- An acceptance must be clear.


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 **ACCEPTANCE**

When does an acceptance take effect?

- If an offeror is present, an acceptance takes effect from the time when it becomes known to the offeror.
- If an offeror is *not* present, an acceptance takes effect from the time when it reached the offeror.


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 **ACCEPTANCE**

Effects of an acceptance

- If an acceptance matches an offer, a contract is formed.
 - An acceptance with modification to the offer is considered to be a new offer.
 - A late acceptance becomes a new offer.
- When an acceptance becomes effective, it cannot be revoked.


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 **CONTRACT FORMATION**

Considerations for contract formation

1. Is there an offer?
2. When does the offer take effect? (Sections 168-169)
3. How long does the offeree have to accept the offer? (Sections 354-355)
4. Does the offeree accept the offer within the given time and without modification to the offer? (Sections 357, 359)
5. When does the acceptance take effect? (Sections 168, 169, 361)


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 **EXERCISES**


Belle sent a letter to Beast saying that:

“I would like to sell you my book titled “Beauty and the Beast”. The price is negotiable. Please respond within 7 days.”

Is this letter an offer?




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 **EXERCISES**

Two days later, the letter Belle sent to Beast arrived at Beast’s house, but Beast had not read it yet.

Is Belle’s intention expressing in the letter effective yet?



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 **EXERCISES**

After reading Belle’s letter, Beast called Belle to say that he agreed to buy the book for THB 1,000 and gave Belle 5 days to decide.

Is this an offer or an acceptance?

Can Beast withdraw it?

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 **EXERCISES**

After hearing Beast’s proposal, Belle rejected it immediately because she thought that her book was worth more than THB 1,000.

Two days later Belle changed her mind. So, she called Beast and told Beast that she accepted Beast’s offer.

Does the contract between Belle and Beast form?

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