

UNJUST ENRICHMENT

Concept

- Black Law Dictionary:

“A general equitable principle that no person should be allowed to profit at another's expense without making restitution for the reasonable value of any property, services, or other benefits that have been unfairly received and retained.”

- The general principle is that one should not be permitted to unjustly enrich himself at the expense of another. Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another.
- Three elements must be established in order to sustain a claim based on unjust enrichment: the benefit conferred upon the defendant by the plaintiff; appreciation of knowledge by the defendant of the benefit; under such circumstances as to make it inequitable for the defendant to retain the benefit without payment of its value.

These principles specifically absent in the case of omission by a statute, are made by the competent Legislature to award interest or solatium, in addition to compensation. So it cannot be characterised as unjust enrichment where such action does not involve violation of law or is not opposed to public policy either directly or indirectly when the statute prescribes the principle for payment of compensation and omits as its policy to provide for the payment of interest and solatium as component of compensation. It is the legislative public policy to provide for acquisition of the private property for a public purpose. The state pays compensation for the acquired land in accordance with the principle laid down in the statute.

- The doctrine of unjust enrichment is applicable for purpose of grant of refund.
- There is a legal maxim *Nemo Debet Locupletari ex Aliena Jactura* which means that no one should grow rich out of other person's loss. The unjust enrichment has 3 elements:
 - (1) That the defendant has been enriched by the receipt of the benefit.
 - (2) That the defendant must have been enriched at the expense of plaintiff
 - (3) Allowing the defendant to keep the benefit will be unjust.

Legal Precedents:

- In *Indian Council for Enviro – Legal Action v Union of India*, (2011) 8 SCC 161, the Supreme Court considered certain principles of law of unjust enrichment and observed that unjust enrichment is the unjust receipt of any benefit and that there lies a relationship between restitution and unjust enrichment in Para 152, 153, 159, 161, 162, 164

152. “Unjust enrichment” has been defined by the court as the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust.

159. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust. Unjust enrichment is basic to the subject of restitution, and is indeed approached as a fundamental principle thereof. They are usually linked together, and restitution is frequently based upon the theory of unjust enrichment. However, although unjust enrichment is often referred to or regarded as a ground for restitution, it is perhaps more accurate to regard it as a prerequisite, for usually there can be no restitution without unjust enrichment

161. The terms “unjust enrichment” and “restitution” are like the two shades of green—one leaning towards yellow and the other towards blue. With restitution, so long as the deprivation of the other has not been fully compensated for, injustice to that extent remains. Which label is appropriate under which

circumstances would depend on the facts of the particular case before the court. The courts have wide powers to grant restitution, and more so where it relates to misuse or non-compliance with court orders.

162. We may add that restitution and unjust enrichment, along with an overlap, have to be viewed with reference to the two stages i.e. pre-suit and post-suit. In the former case, it becomes a substantive law (or common law) right that the court will consider; but in the latter case, when the parties are before the court and any act/omission, or simply passage of time, results in deprivation of one, or unjust enrichment of the other, the jurisdiction of the court to levelise and do justice is independent and must be readily wielded, otherwise it will be allowing the court's own process, along with time delay, to do injustice.

*164. This view of law as propounded by author Graham Virgo in his celebrated book *The Principles of the Law of Restitution* has been accepted by a later decision of the House of Lords (now the UK Supreme Court) in *Sempra Metals Ltd. v. IRC*.*

- In *Mafatlal Industries Ltd. & Ors v Union of India & Ors*, (1997) 5 SCC 536, the Supreme Court held that *"the Excise Officer cannot tax more than what is permitted by the statute. If the levy is in excess of the statute, then its retention by the State is unauthorised by law. Such illegally collected tax is not the property of the State and is not within the disposing power of the State."*
- In *Sahakari Khand Udyog Mandal Ltd v CCE & Customs*, (2005) 3 SCC 738, the Supreme Court elaborated upon the aspect of unjust enrichment thus: *"unjust enrichment means retention of a benefit by a person that is unjust or inequitable. Unjust enrichment occurs when a person retains money or benefits which in justice, equity and good conscience, belong to someone else. The doctrine of "unjust enrichment", therefore, is that no person can be allowed to enrich inequitably at the expense of another. A right of recovery under the doctrine of "unjust enrichment" arises where retention of a benefit is considered contrary to justice or against equity."*

Legal Precedents (English Case Laws):

- In *American University v. Forbes*, 88 N.H. 17, 183 A. 860, 862 it is observed that *a person shall not be allowed to profit or enrich himself inequitably at another's expense.*
- In *Herrmann v. Gleason*, C.C.A.Mich., 126 F.2d 936, 940: *Through the doctrine of unjust enrichment a defendant has something of value at the plaintiff's expense under circumstances which impose a legal duty of restitution.*
- In *Seekins v. King*, 66 R.I. 105, 17 A.2d 869, 871, 134 A.L.R. 1060, the doctrine permits recovery in certain instances where person has received from another a benefit retention of which would be unjust.
- In *State v. Martin*, 59 Ariz. 438, 130 P.2d 48, 52, it was observed that the Doctrine of unjust enrichment is not contractual but is equitable in nature.
- In *Hummel v. Hummel*, 133 Ohio St. 520, 14 N.E.2d 923, 927 it was laid down that *"Unjust enrichment" of a person occurs when he has and retains money or benefits which in justice and equity belong to another.*
- In *Conkling's Estate v. Champlin*, 193 Okl. 79, 141 P.2d 569, 570 it was observed that *one who has conferred a benefit upon another solely because of a basic mistake of fact induced by a nondisclosure is entitled to restitution on doctrine of undue enrichment.*
- In *Fibrosa v Fairbairn*, 1943 AC 32, Lord Wright stated the principle as thus: *"[A]ny civilised system of law is bound to provide remedies for cases of what has been called unjust enrichment or unjust benefit, that is, to prevent a man from retaining the money of, or some benefit derived from, another which it is against conscience that he should keep. Such remedies in English law are generically different from remedies in contract or in tort, and are now recognised to fall within a third category of the common law which has been called quasi contract or restitution."*
- In *Nelson v. Larholt*, (1948) 1 KB 339 Lord Denning has observed that *"it is no longer appropriate to draw a distinction between law and equity. Principles have now to be stated in the light of their combined effect. Nor is it*

necessary to canvass the niceties of the old forms of action. Remedies now depend on the substance of the right, not on whether they can be fitted into a particular framework. The right here is not peculiar to equity or contract or tort, but falls naturally within the important category of cases where the court orders restitution if the justice of the case so requires. It is well established that a person who seeks restitution has a duty to account to the defendant for what he has received in the transaction from which his right to restitution arises. In other words, an accounting by the plaintiff is a condition of restitution from the defendant (See 'Restatement of the Law of Restitution', American Law Institute, 1937 Edn., p. 634)."