Subject Name: Contract Act
Topic Name: Novation, Alteration, Remission, etc

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In contract law, the termination or discharge of a contract by mutual consent can occur through various means, each with its own legal implications.

Novation

Novation involves replacing the original contract with a new one, either between the same parties or involving different parties.

Examples:

1. Equitable Mortgage: B borrows Rs 1 lakh from C and offers to create an equitable mortgage on his property for Rs 75,000. C accepts this offer, and the new contract substitutes the old one, automatically terminating the original agreement.

2. Change of Debtor: B borrows Rs 50,000 from C, but later, B, C, and N agree that N will become the debtor instead of B. The original contract between B and C ends, and a new debt is created between C and N.

Rescission

Rescission involves cancelling some or all portions of the contract by mutual consent, thereby ending the obligations of the parties under the original contract.

Alteration

When both parties agree to alter certain terms of the contract, the original contract is automatically terminated, though the parties remain the same.

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Remission

Remission involves accepting a lesser amount than what was originally agreed upon, thereby discharging the contract.

Examples:

1. Loan Settlement: A borrows Rs 55,000 from a bank, but after discussions, it's agreed that A will pay Rs 40,000 within two days in full satisfaction of the loan. The bank accepts this amount, fully discharging the loan.

2. Partial Payment: B owes Rs 20,000 to C but pays only Rs 15,000, which C accepts in full settlement. The entire loan amount of Rs 20,000 is settled and liquidated.

Waiver

Waiver occurs when a party relinquishes or abandons their rights under the contract, thereby releasing the other party from their obligations.

Example:
If P promises to paint X's picture but X later asks P not to paint it, P is no longer bound to fulfill the promise.

Merger

When an inferior right coincides with a superior right of the same person, the contract is discharged by way of merger.



Example:
Lokmanya holds a lease on a house owned by Onkar but later purchases the house. The lease rights vanish, and Lokmanya's rights as an owner supersede his previous lease rights. This merger of rights results in the discharge of the lease contract.