24. Frustration: contracts discharged for failure of a basic contractual assumption

This chapter examines contracts which were avoided because of the failure of a basic contractual assumption after the contract has been concluded. If the failure of a basic contractual assumption occurs after the contract has been concluded, the contract may be frustrated. A frustrating event kills off the contract automatically. However, everything that was done from the making of the contract up to its frustration was, and remains, validly done in pursuance of that contract. A contract cannot be frustrated where the risk of an assumption failing has been allocated to one of the parties under the contract (for example by a force majeure clause), or where the failure is attributable to the fault of one of the parties. The Law Reform (Frustrated Contracts) Act 1943 will determine the consequences of frustration. This legislation provides a statutory mechanism for adjusting the rights of parties after a contract has been frustrated.
24. Frustration: contracts discharged for failure of a basic contractual assumption