21. Frustration and Force Majeure

The doctrine of frustration operates to discharge a contract where, after the formation of the contract, something occurs which renders performance of the contract impossible, illegal, or something radically different from that which was in the contemplation of the parties at the time of entry into the contract. This chapter examines the scope of the doctrine of frustration and the relationship between the doctrine of frustration and any force majeure or hardship clause that is found in the contract. Consideration is given to the basis of the doctrine of frustration and the remedial consequences of the conclusion that a contract has been frustrated. It also explores the reasons for the narrow scope of the doctrine of frustration and contrasts it with the more liberal regimes to be found in, for example, the Principles of European Contract Law.
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