13. Common mistake and rectification

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Titles in the Core Text series take the reader straight to the heart of the subject, providing focused, concise, and reliable guides for students at all levels. This chapter examines the situation where both parties to a contract share a common mistake. It analyses several court cases indicating that certain sorts of mistake can render contracts void at the level of common law. It discusses the doctrine of mistake approach which asserts that certain sorts of common mistake inevitably render a contract void and the construction approach which argues that the effect of common mistake is ascertained by construing and interpreting the contract. This chapter also considers the scope of the equitable remedy of rectification for common and unilateral mistake.

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