

The rules relating to trusts are contained in the trusts act 1882. It came into force on 1st day of March 1882 and extends to the whole of Pakistan. The trusts act 1882 deals with private trusts. it does not discuss the rules of Islamic law relating to waqaf. A trust is purely equitable obligation and is enforceable only in a court in which equity is administered only in a distinctive feature of a trust is that it is not issuing out in for it is not a legal property.

2. Relevant provisions:

Sec 3,4,5,6,7 of trusts act

3. Definitions:

I. Black law dictionary:

Trust is a right of property, real or personal, held by one party for the benefit of other. it is a confidence reposed in one person, who is termed trustee, for benefit of another, who is called cestui que trust.

II. DR. Underhill:

A trust is an equitable obligation, either expressly undertaken or constructively imposed by the court, where by the obligator is bound to deal with property over which he has control for the benefits of persons of which he may or may not himself be one and anyone of whom may enforce the obligation.

III. DR. Maitland:

A trust enforced when a person has rights which he is bound to exercise:

- (i) On behalf of another, or
- (ii) For accomplishment of some particular purpose.

He is said to have those rights in trust "for that other or for that" purpose" and he is called a trustee.

IV. Trust act 1882:

According to Sec. 3 a trust is an obligation annexed to the ownership of the property and arising out of a confidence reposed in and accepted by the owner and declare and accepted by him, for the benefit of another and the owner.

4. Kinds of trust:

Kinds of trust are as under:

- (i) Constructive trust.
- (ii) Executed trust.
- (iii) Private trust.
- (iv) Public trust or charitable.
- (v) Expressed trust.
- (vi) Secret trust.
- (vii) Executory trust.
- (viii) Implied trust.

5. Parties of Trust:

(i) Trustee:

The person who accepts the confidence is called a trustee.

(ii) Author:

The person who reposes or declares confidence is called author of the trust.

(iii) Beneficiary:

The person for whose benefit the confidence is accepted is called the beneficiary.

6. Trust property:

The subject matter of the trust is called trust property.

7. Instrument of trust:

The instrument by which the trust is declared is called the instrument of trust.

8. Who may create a trust:

- (i) By every person competent to contract.
- (ii) With the permission of a principal civil court or original jurisdiction, by or on behalf of a minor.

9. Declaration of a trust;

A trust regarding immovable property is not valid unless it is declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered or by the will of the author or of the trustee.

similarly a trust regarding moveable property is not valid unless it is declared as aforesaid or unless the ownership of property is transferred to the trustee.

10. Creation of trust:

According to Sec. 6 a trust is created when the author of the trust indicates with reasonable certainty by words or acts.

- (i) An intention on his part he create it.
- (ii) The purpose of a trust.
- (iii) The beneficiary.
- (iv) The trust property.

11. Requisites of A valid trust:

Requisites of a valid trust are as under:

- (i) The intention of the author of the trust.
- (ii) The beneficiaries.
- (iii) Lawful purpose of the trust.
- (iv) Subject matter.
- (v) Transfer of possession of trust property.

12. Purpose of trust:

According to Sec 4, a trust may be created for lawful purpose. if the purpose is unlawful, it is void.

13. Rule of certainty;

following are rule of certainty;

- (i) Certainty of words.
- (ii) Certainty of subject matter.
- (iii) Certainty of object.

14. Unlawful Purposes of trust:

Following purposes of a trust are unlawful.

I. Forbidden by law,

If it is forbidden by law the purpose will be unlawful.

II. Fraudulent:

If it is fraudulent.

III. Against provision of any law:

It would defeat the provisions of any law.

IV. Involves any injury:

If it involves or implies any injury to the person or property of author.

V. Immoral

If it is regarded by the court as immoral.

VI Against public policy

If it is regarded by the court as opposed to public policy.

15. Effect Of Unlawful Purpose Or Object

If purpose of trust is not lawful. It is absolute void.

(i) In case of two purposes

Where two purposes are so interconnected that they cannot be separated the whole trust shall become void.

16. Conclusion

To conclude I can say that the trust is defined as that relation between two persons by virtue of which one of them holds property for benefit to the other, or an equitable right, title or interest in property, real or personal distinct from the legal ownership thereof. A trust can only be created for a lawful purpose. If purpose of trust is unlawful it is void.