

**Chapter 7 – Voidable Contracts**

**A. True or False (Explain briefly your answer citing the legal basis thereof)**

1. There is fraud when a person takes improper advantage of his power over the will of another, depriving the latter of a reasonable freedom of choice.
2. An action for rescission of contract is one filed where consent is vitiated by lack of legal capacity of one of the contracting parties, or by mistake, violence, intimidation, undue influence or fraud.
3. Ratification of a voidable contract must be effected expressly only.
4. Ratification may not be effected by the guardian of the incapacitated person.
5. Ratification requires the conformity of the contracting party who has no right to bring the action for annulment.
6. The action for annulment of contracts shall be extinguished when the thing which is the object thereof is lost through the fraud of the person who has a right to institute the proceedings.
7. As long as one of the contracting parties does not restore what in virtue of the decree of annulment he is bound to return, the other cannot be compelled to comply with what is incumbent upon him.
8. A voidable or annullable contract is one in which has no force and effect from the very beginning.
9. A voidable or inexistent contract is one in which the essential requisites for validity are present, but vitiated by want of capacity, error, violence, intimidation, undue influence, or deceit.
10. Contracts where consent is given through fraud are annullable.
11. If the contract is ratified, the action to annul is not extinguished.
12. For undue influence to be present, the influence exerted must have so overpowered the mind of a contracting party as to destroy his free agency, making him express the will of another rather than his own.
13. Ratification cleanses the contract from all its defects from the moment it was constituted.
14. An obligation having been annulled, the contracting parties shall restore to each other the things which have been the subject matter of the contract, with their fruits, and the price with its interest.
15. The effect of the annulment of the contract is to wipe it out of existence, and to restore the parties to their original situation before the contract was entered into.

**B. Multiple Choice (Explain briefly your answer citing the legal basis thereof)**

1. A sold B a genuine bottle of brand "X" wine. However, upon delivery the former substituted a fake. B now wants to annul the sale. Decide.
  - a. The contract is void ab initio therefore, it can be annulled.
  - b. The contract can be annulled since it is voidable due to fraud.
  - c. The contract cannot be annulled because it is only incidental fraud.
  - d. There is dolo incidente therefore, it can be annulled.

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**Jessica J Manson**



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