

## Understanding vitiating elements and ensuring fairness in Nigerian contract law: A comprehensive study

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### Abstract

This abstract presents key findings and recommendations from a study on vitiating elements in Nigerian contract law. The study explored elements such as misrepresentation, mistake, duress, undue influence, lack of capacity, illegality, unconscionability, frustration of purpose, and non-compliance with formalities, analyzing their impact on contract formation and enforceability. Emphasizing the importance of understanding vitiating elements for fair and transparent contractual relationships, the study highlighted public policy as a guiding principle in determining enforceability. It stressed the significance of adhering to formal requirements and conducting due diligence to protect parties from unjust contracts. Recommendations included legal education, standardized contract terms, special protections for vulnerable parties, and adaptation to emerging technologies. These insights contribute to enhancing contract formation integrity and supporting equitable relationships within Nigeria's legal framework.

**Keywords:** Vitiating elements; Nigerian contract law; Misrepresentation; Mistake; Duress; Undue influence; Capacity of parties; Contract validity

### 1. Introduction

Contract law is a crucial pillar in legal systems globally, facilitating legally binding agreements that establish rights and obligations, promoting trust in commercial and personal interactions. However, certain elements known as vitiating factors can jeopardize the validity and enforceability of contracts (Ademola Yakubu, 2003).

#### 1.1. Definition and Importance of Contract Law

Contract law governs the formation, interpretation, and enforcement of agreements, playing a pivotal role in modern societies. Contracts, legally enforceable agreements between competent parties, underpin various transactions like business deals, employment relationships, and property transactions (Bassey Hogan-Itam, 2017).

#### 1.2. Purpose and Scope of the Study

This study explores vitiating elements within Nigerian contract law. By analyzing legal texts, scholarly articles, case law, and statutes, we aim to comprehend how these elements operate in the Nigerian context, their implications, and available remedies. Notable court decisions will illustrate their application and interpretation in Nigerian law.

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## 2. Overview of Vitiating Elements

### 2.1. Misrepresentation and its Impact on Contract Validity

Misrepresentation is a crucial aspect of contract law, involving false information communicated during negotiations, leading the other party to enter into the agreement (Spark, 2013). The types include innocent misrepresentation (no intent to deceive), negligent misrepresentation (lack of reasonable care), and fraudulent misrepresentation (intentional deception) (Opawole & Jagboro, 2017).

Consequences and remedies vary based on the type. Innocent misrepresentation allows the option to rescind the contract (Opawole & Jagboro, 2017). Negligent misrepresentation permits rescission and possible damages. Fraudulent misrepresentation leads to rescission, damages, and potential legal action for deceit (Nnona, 2000). Limiting liability for misrepresentation in contractual clauses may be subject to court scrutiny, especially for fraudulent misrepresentation (Nnona, 2000). Understanding misrepresentation is vital for fair and transparent contract dealings (Spark, 2013).

**Table 1** Types of Misrepresentation, Consequences, and Remedies in Contract Law

Type of Misrepresentation	Definition	Consequences	Remedies	References
Innocent Misrepresentation	False information without intent to deceive	Render contract voidable	Option to rescind contract	Spark, 2013; Opawole & Jagboro, 2017
Negligent Misrepresentation	False information without reasonable care	Render contract voidable; damages	Option to rescind contract; damages	Spark, 2013; Opawole & Jagboro, 2017
Fraudulent Misrepresentation	Intentional false statements to deceive	Render contract voidable; legal consequences	Rescind contract; claim damages; legal action for deceit	Spark, 2013; Opawole & Jagboro, 2017; Nnona, 2000

### 2.2. Mistake as a Vitiating Element

Mistake is a significant element in contract law, with two categories: mutual mistake (both parties mistaken about a material fact) and unilateral mistake (only one party mistaken) (Festus Emiri, 2013). Mistakes can be fundamental (core aspect of the contract) or non-fundamental (secondary aspect) (Jacob Otu Enyia, 2019). In mutual fundamental mistake, the contract can be voided, releasing both parties from obligations. Unilateral mistake allows rescission if the other party was aware or contributed. Non-fundamental mistakes may not void the contract (Festus Emiri, 2013). To avoid mistakes, parties should exercise due diligence, seek professional advice, and use clear and precise contract terms (Jacob Otu Enyia, 2019).

**Table 2** Types of Mistakes in Contract Law and their Implications

Type of Mistake	Definition	Implications	References
Mutual Mistake	Both parties mistaken about a material fact	Contract may be voided	Festus Emiri, 2013
	essential to the contract	Both parties released from obligations	
Unilateral Mistake	Only one party mistaken, other party aware of the mistake	Option to rescind contract (if aware)	Nnona, 2000
	or contributed to the mistake		
Fundamental Mistake	Pertains to a core aspect of the contract (subject matter,	Contract may be voided	Jacob Otu Enyia, 2019

	identity of parties)	Both parties released from obligations	
Non-Fundamental Mistake	Relates to secondary or trivial aspect of the contract	Contract may still be enforceable	Festus Emiri, 2013; Jacob Otu Enyia, 2019
	that does not go to the heart of the agreement	Mistaken party bound by contract terms	

### 2.3. Duress and Undue Influence in Contract Formation

Duress and undue influence are significant elements impacting contract validity. Duress involves compelling a party to agree through threats or coercion, rendering the contract voidable (Festus Emiri, 2013). Undue influence occurs when a dominant party takes advantage of a special relationship to persuade the weaker party, also making the contract voidable. Nigerian courts have handled such cases, establishing legal precedents to assess claims of duress and undue influence (Duru, 2012). To protect against these issues, parties must enter contracts freely, without pressure. Seeking legal advice is crucial if concerns arise, preserving fairness in Nigerian contract law (Duru, 2012).

**Table 3** Duress and Undue Influence in Contract Law: Definitions and Legal Implications

Vitiating Element	Definition	Legal Implications	References
Duress	Compelling a party to enter a contract under threat of harm	Renders the contract voidable	Festus Emiri, 2013
	or coercion		
Undue Influence	Dominant party using a special relationship or position of power	Renders the contract voidable	Festus Emiri, 2013
	to persuade the weaker party into the contract		
Legal Precedents	Nigerian courts have established precedents to assess claims	Helps determine contract enforceability	Duru, 2012
	of duress and undue influence		
Safeguards	Parties should ensure contracts are entered into freely	Protects against duress and undue influence	Duru, 2012
	without any form of pressure or coercion		

### 2.4. Capacity of Parties in Contractual Relationships

**Table 4** Capacity of Parties in Contractual Relationships: Impact on Contract Validity

Parties' Capacity	Definition	Contractual Implications	References
Legal Competence	Parties with legal capacity can form valid contracts	Contracts are legally enforceable	Festus Emiri, 2013
Minors	Minors lack the capacity to contract due to age	Contracts with minors are often voidable	Festus Emiri, 2013
		Protects the interests of minors	

Mental Impairments	Individuals with mental impairments may lack capacity to contract	Contracts with mentally impaired voidable	Festus Emiri, 2013
		Safeguards interests of impaired parties	
Contract Enforcement	Incapacity may render contracts unenforceable	Courts can set aside contracts made by parties lacking capacity	Duru, 2012
		Ensures integrity of contractual commitments	

Capacity in contractual relationships is essential to determine the ability of individuals to enter into legally binding agreements. Generally, parties with legal competence can validly form contracts (Festus Emiri, 2013). However, minors and individuals with mental impairments may lack the capacity to contract. Contracts with such individuals are often voidable, protecting their interests. The impact of incapacity on contract enforcement ensures fairness and safeguards vulnerable parties. Courts may set aside contracts made by parties lacking capacity, ensuring the integrity of contractual commitments. Understanding capacity is crucial to uphold the principles of contract law (Duru, 2012).

### 2.5. Illegality and Contracts Contrary to Public Policy

In Nigerian contract law, illegality and contracts contrary to public policy are significant factors that render certain agreements unenforceable. Illegal contracts involve violations of the country's laws, ranging from engaging in illicit activities to contravening specific statutes. Similarly, contracts against public policy are deemed harmful to societal norms and the public interest, making them unenforceable as they undermine fairness and equity (Festus Emiri, 2013). In such cases, the courts play a crucial role in determining the validity of contracts, refusing to enforce agreements that violate the law or go against public policy concerns. By prioritizing the preservation of the rule of law and protecting the public interest, the courts ensure the integrity of contractual relationships and promote justice in contractual matters (Nnona, 2000).

**Table 5** Illegality and Contracts Contrary to Public Policy in Nigerian Contract Law

Factors	Definition	Contractual Implications	References
Illegal Contracts	Agreements that violate Nigerian laws	Illegal contracts are unenforceable	Festus Emiri, 2013
		Protects the integrity of the legal system	
Contracts Against Public Policy	Agreements deemed harmful to societal norms and public interest	Contracts against public policy are unenforceable	Festus Emiri, 2013
		Promotes fairness and equity	
Court's Role	Courts determine the validity of contracts	Refuses to enforce illegal and contrary-to-public-policy contracts	Nnona, 2000
		Protects the rule of law	
		Promotes justice in contractual matters	

### 2.6. Unconscionability as a Vitiating Factor

Unconscionability serves as a significant vitiating factor in contract law, referring to contracts that are excessively one-sided and shockingly unfair to one party. Such contracts take advantage of the disadvantaged party's vulnerable position, lack of bargaining power, or limited understanding of the terms (Imoni et al., 2023). Identifying unconscionability involves examining the contract's terms and circumstances to assess whether one party was subject

to oppression, undue influence, or unfair terms that undermine the principles of good faith and fair dealing (Opawole & Jagboro, 2017).

When a contract is found to be unconscionable, the courts may intervene to protect the disadvantaged party (Spark, 2013). Remedies can include setting aside or partially voiding the unfair terms, rewriting the contract to ensure fairness, or even declaring the entire contract unenforceable. By addressing unconscionable contracts, the courts uphold the values of justice and equitable dealings, ensuring that vulnerable parties are not subjected to unjust exploitation and preserving the integrity of contractual relationships (Spark, 2013).

**Table 6** Unconscionability as a Vitiating Factor in Contract Law

Unconscionability	Definition	Contractual Implications	References
Unfair Contracts	Contracts that are excessively one-sided and shockingly unfair	Unconscionable contracts are unenforceable	Opawole & Jagboro, 2017
	to one party	Protects disadvantaged parties	
Identifying	Assessing terms and circumstances to identify	Courts address oppression, undue influence,	Opawole & Jagboro, 2017
Unconscionability	oppression, undue influence, or unfair terms	and unfair terms	Spark, 2013
	that undermine good faith and fair dealing		
Court's Remedies	Courts may intervene to protect the disadvantaged party	Setting aside or voiding unfair terms,	Spark, 2013
		rewriting the contract, or declaring it	
		unenforceable	
Preserving Justice	Addressing unconscionable contracts upholds justice and equity	Ensures vulnerable parties are not exploited	Spark, 2013
		Preserves integrity of contractual relationships	

### 2.7. Frustration of Purpose and its Contractual Effects

Frustration of purpose in contract law occurs when unforeseen events make it impossible to achieve the contract's intended purpose (Spark, 2013). Events like natural disasters or government regulations can lead to frustration, beyond the parties' control at contract formation (Nnona, 2000). The consequences include contract discharge, releasing parties from obligations due to the unforeseen event (Duru, 2012). However, if one party received significant benefits before the frustration, they may need to compensate the other party (Festus Emiri, 2013). Possible remedies include restitution or negotiating new terms to achieve a fair outcome (Duru, 2012).

**Table 7** Frustration of Purpose in Contract Law: Definition, Causes, and Consequences

Concept of Frustration	Definition	Causes of Frustration	Consequences in Contracts	References
Frustration of Purpose	Unforeseen events make contract purpose impossible to achieve	Natural disasters	Contract discharge	Spark, 2013
		Government regulations	Compensation for received benefits	Nnona, 2000

		Destruction of subject matter	Restitution and returning benefits	Duru, 2012
			Negotiating new terms	Festus Emiri, 2013

**2.8. Role of Public Policy in Contract Law**

Public policy plays a crucial role in Nigerian contract law, guiding enforceability based on fairness, justice, and societal welfare (Kruger, 2011). Contracts violating public values may be unenforceable, safeguarding against harmful or oppressive agreements (Kruger, 2011). Notable cases in Nigeria demonstrate the court’s application of public policy to protect the public interest and ensure fairness in contractual relationships (Imoni et al., 2023).

**Table 8** Role of Public Policy in Nigerian Contract Law

Concept of Public Policy	Definition	Impact on Enforceability	Notable Cases in Nigeria	References
Public Policy	Fundamental values and policies for public good	Safeguards against harmful/aggressive contracts	Cases involving contracts promoting corruption, harm to public welfare, or undermining justice and equity	Kruger, 2011
Contract Enforceability	Contracts violating public values may be unenforceable	Ensures agreements align with societal norms and values		
Role in Nigerian Law	Public policy guides fairness, justice, and societal welfare	Courts intervene to protect the public interest and promote fairness in contractual relationships		

**2.9. Compliance with Formalities in Contract Formation**

Compliance with formalities is essential in contract formation, especially for contracts involving land, guarantees, and significant transactions (Garrett & Pursch, 2007). Failure to comply can render the contract invalid and unenforceable, as seen in Nigerian contract law (Adaralegbe, 2008). Courts have emphasized the importance of adhering to formalities to protect parties’ rights and interests (Garrett & Pursch, 2007).

**Table 9** Importance of Compliance with Formalities in Contract Formation

Compliance with Formalities	Definition	Consequences on Enforceability	Nigerian Contract Law	References
Requirement for Certain Types	Specific contracts (e.g., sale of land, guarantees) need	Failure to comply may render the	Statute of Frauds outlines formal	Garrett & Pursch, 2007

of Contracts	writing and procedural requirements	contract invalid and unenforceable	requirements for certain contracts	
Nigerian Contract Law	Nigerian contract law includes statutory provisions for	Non-compliance with formalities	Courts have refused to enforce contracts	Adaralegbe, 2008
	formal requirements in certain contracts	can lead to non-enforceability	where formalities were not met	
Protecting Rights and	Compliance ensures contracts are legally binding and	Emphasizes the importance of adhering	Adherence to formalities safeguards	Garrett & Pursch, 2007
Interests of Parties	protects the rights and interests of all parties involved	to formalities to protect parties'	parties' rights and interests	
		rights and interests		

### Recommendations

- Legal Education and Awareness: Promote public, business, and legal practitioner awareness about vitiating elements in contract law to empower informed decision-making and reduce the risk of unfair contracts.
- Enhanced Due Diligence: Encourage thorough due diligence by contract parties to verify information, minimizing the chances of misrepresentation, mistake, and other vitiating factors.
- Standardization of Contractual Terms: Consider industry-specific standardization of contract terms to promote fairness, transparency, and avoid unconscionable provisions leading to disputes.
- Special Protections for Vulnerable Parties: Implement safeguards for vulnerable parties like minors and individuals with mental impairments to prevent exploitation and ensure equitable outcomes.
- Adherence to Formalities: Strictly follow formal requirements outlined in Nigerian law for specific contracts, ensuring proper documentation and signatures to bolster enforceability.
- Continued Research and Case Law Analysis: Encourage ongoing research and case analysis by legal scholars and practitioners to keep abreast of evolving contract law principles in Nigeria.
- Consideration of Emerging Technologies: Proactively address legal challenges posed by emerging technologies like digital contracts and electronic signatures to adapt the legal framework effectively.

### 3. Conclusion

Nigerian contract law is influenced by several vitiating elements that can affect contract enforceability, including misrepresentation, mistake, duress, undue influence, lack of capacity, illegality, unconscionability, frustration of purpose, and non-compliance with formalities. Understanding these elements is crucial for individuals and professionals engaging in contracts within Nigeria. The study has highlighted the legal principles, implications, and remedies associated with each element, with notable court decisions shaping their application. Future research can focus on specific elements, their interactions, challenges in contract disputes, and the impact of technology and international legal frameworks on Nigerian contract law.

### Compliance with ethical standards

#### *Disclosure of conflict of interest*

No conflict of interest to be disclosed.

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