

RECTIFICATION (SECTION 26)

Section 26 of the Specific Relief Act, 1963 addresses the rectification of contracts or other written instruments in cases where the expressed terms do not reflect the real intention of the parties due to fraud or mutual mistake. The section outlines the following provisions:

- **Parties' Remedies:** Either party or their representative can initiate a lawsuit to rectify the instrument, or the plaintiff can include a claim for rectification in a suit where the rights arising from the instrument are in question. Additionally, a defendant in such a suit can request rectification as a defense.
- **Court's Discretion:** If the court finds, in a suit seeking rectification, that the instrument fails to express the true intention of the parties due to fraud or mistake, it can exercise its discretion to direct the rectification of the instrument to align with their actual intention. However, this rectification should not prejudice the rights of third parties who have acquired rights in good faith and for value.
- **Rectification and Specific Performance:** A written contract that has been rectified, upon the prayer of the party seeking rectification in their pleading and at the discretion of the court, may subsequently be specifically enforced.
- **Claim Requirement:** No relief for rectification can be granted unless it has been specifically claimed by the party. However, the court has the authority to allow the amendment of the pleading to include such a claim at any stage of the proceeding if it deems it just to do so.

Section 26 provides a legal recourse for parties to rectify written instruments when their true intentions have been misrepresented due to fraud or mutual mistake. By allowing for rectification and subsequent enforcement, the section aims to uphold the integrity and fairness of contractual agreements.