Relaxation of Law of Detriment Rule

The underlying thought behind the rule is that a party who has acted disgracefully by executing a contract should not be allowed to recover such performance. Thus, where a party to an unlawful contract has performed but his/her performance is not disgraceful, he/she can recover the amount which he/she has performed from the other party. The rule is applied as a general rule to which an exception must be made whenever 'simple justice bet man & man demands it.'

STUDY UNIT 4
THE OBLIGATIONS OF LESSOR

When a contract of lease is concluded, parties are bound by those obligations which they have expressly or impliedly undertaken or which the law imposes upon them in the absence of such express or implied agreement.

Lessor is obliged:
1. to make available or deliver
2. to use or enjoy the property
3. to refrain from disturbing the lessee's use or enjoyment of the property
4. to place and maintain the property in the condition agreed upon
5. to warrant against eviction

If the lessor fails to fulfill any of these obligations - breach of contract

Failure to deliver - Mora Debtoris

Delivery of defective performance - Positive Malperformance

Delivery to someone other than the contracted lessee - Repudiation

Failure to prevent eviction - Positive Malperformance
STUDY UNIT 5
THE LESSOR MUST DELIVER 1 THING

1) 1 lessor must deliver 1 thing

Vacuo Possessio

1 lessor must deliver 1 thing @ agreed time & place
1 lessor must make 1 thing available to 1 lessee.

Delivery must be such 1 lessee obtains
vacuo possessio (undisturbed possession) of 1 thing.
1 lessor must ensure 1 subject to an
agreement to contrary No one will lawfully
or unlawfully interfere with 1 lessee's
exercise of full & undisturbed use & enjoyment
of 1 thing.

1 lessor must deliver everything for 1 thing. let

function properly

WHO IS 1 LESSEE WHERE 1 LESSOR LETS
SAME OBJECT TO 2 DIFFERENT PARTIES BUT
ESTABLISHES NEITHER IN POSSESSION OF 1 OBJECT?

See Study Guide 19

LESSEE'S REMEDIES

If 1 lessor fails to deliver 1 thing, breach of contract
or more debts. If 1 contract tacitly or
expressly prescribes cancellation or a notice of
rescission has been given. Normal remedy
of cancellation is available.
If the property let is unfit for its purpose for which it was let, lessee may cancel the contract. Action of specific performance also available.

If the property is delivered on due date but it is defective, positive malperformance lessee can recover his loss provided it was foreseeable by means of action for damages.

Applying to e.g. example:

A rents guest home from B. Lessee finds two rooms incomplete. A can claim loss of profit for 2 incomplete rooms during period in which they are being completed if parties agreed delivery of property on due date in proper condition.

* If it was agreed lessor needed more time to complete premises, lessee will pay rent if event + lessee has no claim.