

↓ Variation & revival of Deeds of Alienation

If 1 parties enter into a contract which has 1 effect 1 any material terms of 1 Deeds of alienation may be varied. That variation must be reduced to writing & signed. Any Informal (oral) variation of 1 Deed of A will be of no effect & will not effect 1 validity of 1 original deed. Other dicta says 1 such oral variation have 1 result 1 1 whole contract will not be in writing & 1 Deed of A will become invalid.

A waiver by one party of 1 contract is not a variation & need not be in writing
Cancellation: Cancellation of Deed of A & releasing a party from some duties are not variations, need not be in writing.

A cancelled Deed of A may be revived informally by 1 parties

The "cooling off" right of 1 prospective purchaser or to revoke, terminate 1 sale
Sec 29A confers on certain purchasers or prospective purchasers of residential land 1 right to terminate a deed of Alienation or to revoke alienation or offer within 5 days after signing 1

1 consequence of non-compliance with formalities " APPLY to Exchange & Donation

1) Failure to comply with sec 2(i) of 1 alienation of land Act"
When one or both parties render partial or full performance before they are aware 1 1 formal requirement are not met Sec 28 regulates 1 position as follows:

(a) Valid retrospectively: If 1 purchaser has rendered **full** performance & 1 land has been transferred to her, 1 alienation is ab initio valid in every aspect even though 1 formal req have not been met with. Neither party can reclaim their performance.

(b) Statutory enrichment claim: If 1 purchaser or person to whom 1 land has been alienated has rendered partial performance or has rendered full performance but 1 land has not yet been transferred to her. Parties are entitled to reclaim performance. Alienee is also entitled to interest on any amount she paid in terms of 1 Deed of A (calculated from 1 date of payment to recovery @ rate prescribed by 1 minister). Alienee also entitled to compensation for expenses incurred in connection with 1 land. Alienator entitled to reasonable compensation for 1 occupation, use/enjoyment 1 alienee may have had of 1 land, as well as compensation for any damage caused to 1 land by 1 alienee of 1 person for whose actions 1 alienee is responsible.

2) "Failure to comply with sec 2(2A) of 1 Alienation of land Act

"to express determination". Alienation of land Act fails to say what 1 consequences are for failing to incorporate 1 "cooling of period" in 1 contract. Fails to make sec 28 applicable where both parties have rendered full/partial performance.

Conflicting Decisions: In Sayers V Khan Court held that such contracts are void. Any party 1 rendered a performance in terms of a void contract may reclaim her performance. In Sec 3 Dolphin Coast Medical Centre CC V Cowar Investments held 1 contract is voidable @ 1 instance of 1 purchaser. Seems to be correct view. Cooling of right exclusively to 1 benefit of 1 purchaser. When purchaser cancels contract, parties must give back performances they have received.