Unenforceable Contracts

We have noted in this unit that some contracts are void or voidable. In essence, these kinds of contracts are not valid. However, there are contracts which are on their face valid but which a court will not enforce. These are referred to as unenforceable contracts.

Often there is some legal limitation that prevents the enforcement of an otherwise valid contract. For instance, most jurisdictions have a statute of limitations that applies to civil actions to enforce a contract. As an example, you may have a valid contract for a flooring company to lay tile flooring in your kitchen. You have agreed to all terms and have paid the contractor to lay the floor. The contractor shows up to your house and tears up your floor, but never returns to lay the tile. If, for example, the statute of limitations to bring such an action is six years, and you go to court in the seventh year, the court will not enforce your valid contract.

In some cases, a contract is otherwise valid but does not meet the requirements of the Statute of Frauds to be in writing. For example, if we reach an oral agreement for you to buy my house and you move in but never pay me, I will not be able to enforce the agreement, because it should have been in writing, signed by both parties. Note, however, that in these circumstances the law has adapted to ensure that you do not get an unjustly received benefit from the failure of the contract. In addition, of course, because the contract cannot be enforced against you, it also cannot be enforced against me. In this situation, I would get my house back.