

grantee of the option has until a stated day to accept the proposition, the period does not expire till the close of that day (*d*).

The inchoate rights given by an option lapse without notice or declaration of forfeiture from the party making the offer (*e*).

The lapse of the option involves also the forfeiture of any rights of third parties which may be contingent upon its acceptance (*f*).

**41. Acceptance must be within reasonable time where none is particularized.**—The general rule is that, where no time is expressly limited for the exercise of the option by the terms of the proposal, the other party must signify his acceptance of the offer within a reasonable time, or he will be treated as having declined it (*g*).

**42. Payment of purchase price or other sums stipulated at the specified time.**—Another consequence of the essentiality of time in most cases of optional contracts is that, in order to perfect his inchoate rights, the grantee of an option will ordinarily be obliged not merely to declare his acceptance of it within the period for which it holds good, but also, before that period expires, either actually pay (*a*), or make a proper tender of the

(*d*) *Houghwout v. Boisanbin* (1867) 18 N.J. Eq. 315.

(*e*) *Cookson v. Cookson*, 8 Sim. 529; *Pyke v. Northwood* (1838) Beav. 152; *City of London v. Metford* (1807) 14 Ves. 41; *Allen v. Hilton* (1738) Fonbl. Eq. 432; *Wentworth v. Hull & Co. R. W. Co.* (1891) 64 L.T. 190; *Barker v. Critzer* (1886) 35 Kan. 459 [option cannot be revived where grantor acquires the subject matter after its lapse.]

(*f*) *Cummings v. Lake & Co.* (1893) 86 Wis. 382 [no claim for services where option is forfeited].

(*g*) *Fitzpatrick v. Woodruff* (1884) 96 N.Y. 561; *Hanly v. Watterson* (1894) 39 W. Va. 214; *Larmon v. Jordan* (1870) 56 Ill. 204 [offer of property of fluctuating value, like stocks, not presumed to hold good for twenty-seven days; *Chicago, &c., R. Co. v. Dane* (1870) 43 N.Y. 240 [proposal to carry merchandise within certain specified months]; *Carr v. Duval* (1840) 14 Pet. (U.S.) 70 [twenty days not a reasonable time for a reply, where answer by return post is asked for]; *Catlin v. Green* (1886) 5 N.Y. S.R. (Brooklyn City Ct.) 866 [nine years too long for a stockholder to delay exercising option to exchange stock for bonds]. Where one party in consideration of another promising to use his best efforts to sell the former's land for a certain price, binds himself to convey the property to the latter, his assigns, or appointee, whenever called upon to do so, the owner to remain in possession in the meantime, the holder of the option cannot, after so long a period as four years, when the property has greatly increased in value, compel a conveyance, unless he at least tenders the purchase money, or shows that his appointee has the means to pay it. *Kellow v. Jory* (1891) 141 Pa. 144.

(*a*) *Pegg v. Wisden* (1852) 16 Beav. 239; *Weston v. Collins* (1865) 5 N.R. 345; *Lord Ranelagh v. Melton* (1864) 2 Dr. & Sm. 278; *Brook v. Garrod* (1858) 2 De G. & J. 62; 3 K. & J. 62; *Burrit v. Sabine* (1684) 1 Vern. 268. See also to same effect *Nevitt v. McMurray* (1886) 14 Ont. App. 126; *Richardson v. Hardwick* (1882) 106 U.S. 252; *Kerr v. Purdy* (1872) 51 N.Y. 629, rev'g 50 Barb. 629; *Maughlin v. Perry* (1871) 35 Md. 352; *Hermann v. Conlon* (1897) 143 Mo. 369; *Clarno v.*