

Contents

| | | |
|----------|--|----|
| 1 | Introduction | 1 |
| 1.1 | Basic Premise: Contracts and Contract Law | 2 |
| 1.1.1 | Economic Aspect of Contract – A Mechanism for Exchange | 2 |
| 1.1.2 | Legal Perspective of a Contract – A Law Enforcing Mechanism | 3 |
| 1.1.3 | Contractual Incompleteness: Economic and Legal Views | 4 |
| 1.2 | The Tradition of Civil and Common Laws | 9 |
| 1.2.1 | A Unified Approach to Contract Laws | 10 |
| 1.3 | Economic Analysis of (Contract) Law | 12 |
| 1.3.1 | Normative and Positive Analyses | 13 |
| 1.4 | Analytical Framework: Welfare, Efficiency and the Principal-Agent Paradigm | 14 |
| 1.5 | Specific Research Objectives | 17 |
| | References | 21 |
| 2 | Basics of Economic Theory of Contract | 23 |
| 2.1 | Introduction | 23 |
| 2.1.1 | Why a Contract? | 25 |

| | | |
|----------|--|----|
| 2.1.2 | What Type of Contract? Bounded Rationality and Contractual Incompleteness | 28 |
| 2.1.3 | Different Market Modes and Associated Incentives: No Contract, Spot Contract, Simple Incomplete Contract, Complex Contract | 29 |
| 2.2 | The Multi-Task Model: Modes of Contracting, Incomplete Information, Incentives, Hold-Up | 31 |
| 2.2.1 | A Competitive Market Solution | 33 |
| 2.2.2 | Bilateral Relations | 36 |
| 2.3 | Arm's-Length Transactions and Incentives | 39 |
| 2.3.1 | Spot Contract (Ex Post Bargaining) | 39 |
| 2.3.2 | Simple Incomplete Contract (Fixed Price Contract) | 46 |
| 2.3.3 | Complex Incomplete Contracts | 50 |
| 2.3.4 | Issues Related to Uncertain Product Specifications | 51 |
| 2.4 | Conclusion | 52 |
| | References | 56 |
| 3 | Economics of Damage Remedies I: <i>Unilateral Reliance, One-Sided Information Asymmetry</i> | 59 |
| 3.1 | Introduction | 59 |
| 3.1.1 | Hold-Ups: Divergent Economic and Legal Views | 61 |
| 3.1.2 | Where the Present Analysis Stands | 64 |
| 3.2 | The Model: Unilateral Reliance and One-Sided Private Information | 66 |
| 3.2.1 | The General Setting | 66 |
| 3.2.2 | The First Best: Efficient Breach and Efficient Investment | 68 |

| | | |
|----------|---|-----|
| 3.3 | Court-Imposed Remedies for Breach of Contract | 72 |
| 3.3.1 | Restitution Damages (<i>No Explicit Damage Liability</i>) | 73 |
| 3.3.2 | Reliance Damages | 75 |
| 3.3.3 | Expectation Damages | 76 |
| 3.3.4 | Comparison of Court-Imposed Damages | 78 |
| 3.4 | Restoring Efficiency in the Contracts | 81 |
| 3.4.1 | Liquidated Damage (<i>Party-Designed Damage</i>) | 81 |
| 3.5 | Conclusion | 86 |
| | References | 88 |
| 4 | Economics of Damage Remedies II: <i>Bilateral Reliance, One-Sided Information Asymmetry</i> | 91 |
| 4.1 | Introduction | 91 |
| 4.2 | The Model: Bilateral Reliance and One-Sided Private Information | 92 |
| 4.2.1 | General Setting | 92 |
| 4.2.2 | The Analysis: First Best | 94 |
| 4.3 | Court-Imposed Remedies for Breach | 95 |
| 4.3.1 | Reliance and Restitution Damage Measures | 95 |
| 4.3.2 | Expectation Damage | 100 |
| 4.4 | Party Designed Liquidated Damage | 103 |
| | References | 110 |
| 5 | Economics of Damage Remedies III: Incentives Under Expectation Damage With One-Sided Private Information – A Mechanism Design Approach | 111 |
| 5.1 | Introduction | 111 |
| 5.2 | The Model | 114 |
| 5.2.1 | The General Setting | 114 |
| 5.2.2 | The First Best | 116 |
| 5.3 | Mechanisms Under the Shadow of Expectation Damages | 122 |

| | | |
|------------|---|-----|
| xvi | Contents | |
| | 5.3.1 Seller Obtains Private Information | 123 |
| | 5.3.2 Buyer Obtains Private Information | 137 |
| | 5.4 Conclusion | 141 |
| | References | 145 |
| 6 | Economics of Damage Remedies IV: <i>Incomplete Contracts, Bilateral Reliance, Two-Sided Asymmetric Information</i> | 147 |
| | 6.1 Introduction | 147 |
| | 6.2 The Model Setting | 154 |
| | 6.2.1 Technical Assumption | 156 |
| | 6.2.2 Model Analysis | 157 |
| | 6.3 Court Imposed Damages | 162 |
| | 6.3.1 Restitution Damages | 162 |
| | 6.3.2 Reliance Damages | 165 |
| | 6.3.3 Expectation Damage: Three Cases | 167 |
| | 6.4 Party Designed Liquidated Damages | 178 |
| | 6.4.1 Parties Appoint a Mediator | 179 |
| | 6.5 Conclusion | 183 |
| | References | 186 |
| 7 | Concluding Notes | 191 |
| | References | 198 |
| | Bibliography | 199 |
| | Index | 201 |