



**THE SEMANTIC-PRAGMATIC BASIS IN THE INTERPRETATION
OF AMHARIC CONTRACT COURT CASES
OF AMHARA REGIONAL STATE**

**ADDIS ABABA UNIVERSITY SCHOOL OF GRADUATE STUDIES
DEPARTMENT OF LINGUISTICS AND PHILOLOGY**

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A Thesis Presented to the School of Graduate Studies Addis
Ababa University in Partial Fulfillment of the Requirements
for the Degree of Master of Arts in Linguistics

Advisor: Zelealem Leyew (PhD)

June, 2010

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ABSTRACT

In this paper, an attempt is made to investigate the different possible causes for interpreting contracts of parties and the corresponding legal provisions. The main purpose of the study is to analyze the different court judgments of contracts in light of Semantic-pragmatic basis of interpretation. In order to achieve the intended objectives, document analysis is employed. Selected but representative samples of contract types are included in the study.

The result of the study shows that some contracting parties who prepare the contract may use words and phrases to conceal important information of their obligations of the contracts from the other parties. Failing to include detail information in a contract about the quality, number or amount and purpose of a thing, exposes one of the contracting parties for loss.

In the process of interpreting words of a contract or provisions of contract law, special attention is required in determining the synonymy of words or phrases. In addition, conjunctions such as **or** and **and** may provide different meaning options for a sentence in a text. Besides, the intention of parties is not always explicitly stated in the words of a written text. The fraudulent intention of one of the parties in a contract may be exhibited by offering forged documents, by cancelling or changing or including words that did not appear in the original text or document. The appearance of some contracting parties including lawyers in falsifying documents such as wills and sale contracts have a negative influence against the judgments of courts. Finally, sometimes courts may overlook the legal requirements indicated in contract provisions.

CHAPTER ONE

1. INTRODUCTION

During the emperors' regime, emperors were considered as fountains of justice in Ethiopia. As a result, the court system in which emperors are assigned to adjudicate a court case is called /ʔas'e sirʔat/ 'emperor's deed'. According to Aberra Jembere (2000: 84), there was no tradition of recording court cases until Emperor Minilik II ordered the recording of verdicts in 1908. However, samples of judgments that are collected from elders' memory and that show the emergence of court judgments in Ethiopia are discussed in Aberra Jembere (P.85-92).

The traditional mode of litigation was carried out in the form of dialogue. Such court proceedings were called /tät'äyyäk' sirʔat/ 'the processes of being asked'. He has also written that such "mode of litigation" as "a kind of sustained question-and-answer game- was practiced for many centuries in Ethiopia before the Italian occupation" (2000: 265). As detailed in his writing, the litigation processes in /tät'äyyäk' sirʔat/ had lots of procedures such as /ʔak'oraññun/ 'tie up our clothes', /tät'äyyäk'/ 'be interrogated', /bäla libäliha/ 'oral challenge', /tiččit/ 'criticism', /fird/ 'judgment' and so forth.

/ʔak'oraññun/ 'tie up our clothes' was a word that a plaintiff uttered to plead to any passer-by in order to tie the tips of the clothes of parties or in order to take them to a judge. In the process of court proceedings, the arguments of parties were carried out orally. /tät'äyyäk'/was used by one of the parties in the process of investigating the truth of the charge. One of the parties could request the other party to answer his/her questions based on courts' procedures. The other party had to show his/her being ready to be asked. Such asking and answering questions went on for some time. In the mean time, one of the parties may fall into the trap of the other maybe because of slip of the tongue

Oral challenge which was called /bäla libäliha/ could be raised by one of the parties to challenge his/her opponent. Such oral challenge was offered in the form of a poem. The party who composed his argument in the form of verse requested the other party to rely on the truth. Listening to the verses of both parties, judges used to raise some questions in the attempt of getting their intention.

As portrayed in Abera Jembere (2000: 285), the traditional trends of litigation were changed after 1942. He has also ascertained that the enactment of both the modern Criminal Procedure and the Civil Procedure Code brought remarkable changes for criminal cases since 1961 and for civil cases since 1965. Therefore, court cases have been instituted in writing since then. Parties are sometimes requested to dictate their oral arguments only if courts need some clarification on some issues of their cases.

Since 1961 for criminal cases and since 1965 for civil cases, judges check the appearance of witnesses in the process of interviewing witnesses. A judge asks, “Are the plaintiff’s witness present here?” Then, a police man/woman loudly calls the witnesses. Each witness stands in front of the judge who has called them.

The judge orders the police man/woman to let him/her make each witness perform oath. Calling witnesses one by one, the police man/woman orders them to put their palm on a Bible or Quran depending on their religion. Each witness is ordered to say the following phrase after the police man/woman: /bāwnāt limāsākkir/ ‘to witness in truth’, /bāhassāt bimāsākkir/ ‘if I witness/testify wrongly’, /geta ʔiyyāsus kirstos/, ‘Lord Jesus Christ’, /bānābisinna bāsīgayä/ ‘against my soul and flesh’, /yifrädibbiññ/ ‘sentence me’.

After the completion of the oath, all of the witnesses but one leaves the court room until one of them is interviewed. The following dialogue takes place between the judge and the witnesses:

Judge: /yämät’ahibbätn mikniyat tawk'alläh?/

Do you know the reason of your coming here?

Witness: /ʔizih yämät’ahut lämisikkirnat näw/

I come here as a witness.

Judge: /kāsaš tākkässašin tawk'alleh?/

Do you know both the plaintiff and the defendant?

Witness: /ʔawä ʔawk'aččäwallähu/

Yes, I know them.

Judge: /kännäsu gar yäsiḡa zimdinna ʔalläh?/

Do you have blood relationship with them?

Witness: /kākāsaš gar zāmādamočč nān/ or /kātākāssaš gar zāmādamočč nān/ or / kākāsašim
honā kātākāssaš gar zīmdīnna yällāññim/

I have blood relationship with the plaintiff or the defendant or he may say he does not
have such relationship.

Judge: /kākāsaš wāyim kātākāssaš gar t'il ʔallāh?/

Did you have any dispute with one or both of them?

Witness (answers based on his knowledge)

Judge: /silā wil simimmīnnātaččāw min yāmtawk'āw ʔallāh?/

What do you know about their agreement in their contract?

Witness: (explains to the judge his knowledge of the contract)

Once the judge completes his interrogation, both the plaintiff and the defendant are given chances to raise for cross-questions in turn. During the interview some witnesses may be extremely nervous that sweating, trembling and running out of words are commonly observed. They sometimes stay silent for some minutes. However, judges consider the witnesses being nervous and tolerate the silence of such witnesses unless some of the words of the witness contravenes with the words of the other witness and with the issue of the court case.

1.1 Background of the study

In spite of the existence of competition and harm done to one another, cooperation for survival is an indispensable activity that humans must be engaged in, in their day-to-day activities. Human cooperation is possible and effective through communication which relies above all on symbolic language. However, the communicative functions of language do not always join humans in their communicative effort. They also result in some sort of disagreement and hence brings about conflict. Communication is hampered because of the identification of language with reality. To illustrate this point, let me consider an imaginary situation where two contracting parties have agreed that the quality of oranges on the farmer's plot of land is good for the sizes and colors of the fruits are attractive. However, the farmer may have in mind the sour test of an orange which he has considered as good, for it alleviates hypertension and for he had sold some for the same purpose. On the other hand, the buyer would have judged such a taste as bad. Therefore, the contracting parties who have judged the quality of the oranges have made unwarranted generalization. Instead of referring to the specific qualities of the oranges by applying on their

senses, they agreed on the general appearance of the fruit. They did not know that the range of denotation of the quality of the fruit did not fit.

Effective communication depends on using different levels of abstraction appropriately: general statements are indispensable to derive a point home and to organize ideas: getting down to cases is indispensable for indicating the range of denotation of the assertion, for supporting arguments, for specifying the evidence from which inferences have been made. (Rapoport 1975: 405)

Based on the above excerpt of Rapoport (1975), one can learn that general statements do not address the required trait of things in communication. They serve as introductions that direct parties towards dealing with particular cases. Effective communication is manifested when language is used to the extent that it indicates the range of denotation and provides specific evidence. Otherwise, communication breakdown that hinders cooperation is manifested as a social pathology.

Members of any society want to ascertain and value security. Personal security can be expressed, among other things, in terms of money in business transactions such as sale, barter, lease, insurance, and so forth. ‘Security’ here implies protection of property rights against external threats. In order to maintain such security people cooperate in different activities and try to maintain effective competition. Their cooperation for effective competition is facilitated by concluding a contract between and/or among themselves. Nevertheless, cooperation through contract stays effective only on condition that cooperating parties can mutually benefit. However, if the gain goes only to one side or if one of the parties is prone to loss, conflict may arise.

To resolve any dispute among parties, there is a need to exercise law and order in a given society. The society must be obedient to the principles, instructions and obligations mentioned in the codes of the law. The legal machinery that is used to secure one’s property right from wanton violence and to maintain accustomed channels of social life in many countries including Ethiopia is contract law. Contract law is one of the symbolic languages that judge should utilize in determining which party is liable in his/her use of language.

According to the general understanding of semantics, people should be responsible for their use of language as producers or receivers. To be responsible implies to be aware of the possible

consequences of their use of language (Rapoport 1975: 438). It also implies to respect the rights, obligations and consequences mentioned in the law of contract.

Multitudes of contracts of different sorts are concluded within an hour. Every personal, governmental and non-governmental business activities go through contracts. Whenever a dispute arises between parties due to their different understanding of their contract and due to refusal to meet their obligations, courts are responsible to settle the dispute. To resolve conflicts, judges must first identify the obstacles embedded in the legal practice of the society and their institutions. They also should assume parties to be responsible in their use of language. They, then, should translate the contract of parties that is subject to conflict into propositions verifiable by the language hygiene. Language hygiene¹ amounts to the responsible use of language by parties, for example, in the formation of contract. Responsible use of language is the most crucial precondition of effective communication. Effective communication brings about cooperation which is vital for the proper functioning of the society.

For different reasons, the relationships of legal text and the resolution of a particular court case can be complex. To alleviate such complexity, legal scholars recommend two concepts: interpretation and construction. Interpretation is used to identify the actual meaning of a legal text and contract of parties and construction refers to getting the way meaning should be translated and applied to court case(<http://www.lsolum.typepad.com/legaltheory/2009/02/hylton-on-the>).

1.2. Statement of the Problem

As population increases, the number of contracts for business transaction necessarily increases. Some of the contracts may be concluded with fraudulent intention of one of the contracting parties. Another contract may be formed with ambiguous words, phrases, or sentences and even with some gaps. For this reason, parties may encounter disagreement in the interpretation of their contract and fail to perform their obligation. One of the parties may institute the case to a right court. Such disputes are common in great number of contracts. As a result, courts are crowded with great number of people along with many contract cases.

¹ Use of language in a non-exploitative way (Rapoport 1975: 405)

In spite of its great significance, semantic-pragmatic² interpretation seems to be overlooked. Lawyers and courts are likely to focus on construction which implies filling the gaps of a contract and discovering the relationship between contract of parties and legal rules of contract. Sometimes courts may run interpretation and construction together without any awareness of their difference. That is, judges may not realize the inquiry of linguistic meaning of a legal text or a contract of parties. Consequently, the decision for the same court case varies from court to court and it may take several years. Therefore, investigating the reasons for different interpretations, which result in different judgments, is very significant because it may guide future contracting parties in the preparation of contracts.

The contribution of forensic linguistics was started by providing scientific and legal evidence on criminal cases over a decade ago. For example, Jordan (2002) has discussed the significant role that a linguist can and should play in the investigation of crimes in a paper with the title “The Linguistic Analyst and Expert Witness of Language Evidence in Criminal Trails”. However, as far as I know, there have been no or few researches conducted particularly on semantic-pragmatic basis of interpretation of contract cases.

In Amhara Regional State, where this study is conducted, many people are suffering from the different judgments of courts. For example, people who cannot afford hiring lawyers and appealing to high court and/or to supreme courts have been infringed of their property rights and fail to repossess their properties. Their failure is attributed not only to economic reasons but also to their poor knowledge of interpreting the law. In addition, those who can afford taking cases to appellant courts may suffer from expending what they have if the court proceedings take several years. Although they may repossess what they deserve by the appellant courts, their properties being possessed by the wrong party during court proceeding, their time, energy and money they spend inevitably affect them. For such reasons some people prefer losing part of their properties in negotiation to taking their case to courts.

Thus, interpretation of the terms of contracts of parties and the corresponding provisions of the contract in line with semantic-pragmatic aspects is very crucial for two reasons. First, I believe that courts focus on the construction aspects and overlook the importance of semantic-pragmatic

² Semantic meaning that is implicitly given based on co-text (Kenworthy,1991: 99)

basis of interpretation. Second, I do think that, even within construction, semantic-pragmatic knowledge is crucial to see semantic contents of contracts in parallel to legal rules. Finally, being aware of the possible consequences of their contract, future contracting parties will include the necessary elements in the formation of a contract.

Research questions

- What are the possible causes for different interpretations of the same language of a contract case and the corresponding legal rules by plaintiffs, defendants at different court levels?
- What are the semantic-pragmatic factors that expose parties to lose their cases?

1.3. Objective of the Study

The major objective of this study is to analyze the different court decisions of contracts in line with semantic-pragmatic basis of interpretation. To this end I have formulated the following specific objectives:

- to show the semantic aspects that different courts use and misuse in their judgments
- to show the importance of pragmatics (or co-text) in getting the intention of parties
- to identify the semantic aspects that should be used for uniform interpretation of contract cases and the corresponding legal rules
- to identify one of the linguistic meanings of a contract , and/or provisions of the contract law that matches with the normative meaning

1.4. Significance of the Study

The study is very important in providing lawyers and judges linguistic knowledge for the right interpretation of contract court cases and rules of contract. It makes lawyers, judges and other people appreciate the significance of consulting linguists in the analysis of language evidence of a legal text. It enables people to conclude effective contracts and to identify the consequences they will suffer from the breach of contracts. In this way people who read this paper will be able to protect their private properties and minimize the problem of court proceedings. Besides, this study will serve as a document for further research in the area.

1.5 Delimitation of the Study

There are two kinds of laws: public law which is devoted to the interest of the public and private law that maintains the interest of individuals. For this reason, court cases are classified into criminal and civil (krzeczunowicz, 1996: 1). It is not manageable to include varieties of court cases in this study due to time and financial constraints. In addition, crime investigation needs a very complex and confidential process. Therefore, courts, prosecutors and the police do not give open access to information to ordinary researcher. For such reasons, an attempt is made to include the specific interpretation of court cases that constitute private documents, mainly contracts. Since the study uses only dead files, information leakage does not affect any one party. So, I have the confidence of being accessed with the files so required. In addition, only the text based aspect of pragmatics is considered as the non-text aspects of pragmatics are not available in dead court documents.

1.6 Limitation of the Study

In doing this paper, there were different shortcomings the researcher faced. First, I did not get a chance to choose and collect court documents of different kinds of contract court cases. I had to accept the documents the registrar could access to me. For this reason, contracts of lease, barter, insurance and so forth are not included in this study. Second, most handwritten court judgments and contracts of parties were illegible. Third, due to time constraint I could not include live court files that may take me from four to five years. As a result, non-text aspects of court languages of the documents under investigation are not included. Finally, a great number of pages of each court document prevents me from including a good number of contract court cases.

CHAPTER TWO: CONCEPTUAL FRAMEWORK

2.1 Forensic Linguistics

Forensic linguistics is the field that brings together the application of two disciplines: linguistics and law. The application of linguistic methodology in legal issues requires the knowledge of linguistics and a great awareness of ethical and legal issues. Bringing two different fields (linguistics and law) together, linguists can play a role as analysts of court documents of both civil and criminal cases. Thus, forensic linguistics is concerned with the practical application of language to the affairs of law Jordan (2002: 10).

Forensic linguistics can contribute scientific and legal evidence in the analysis of disputed texts of both criminal and civil court cases. According to Jordan, a forensic linguist plays a role in “analyzing language evidence and interpreting it in meaningful and objective manner for the benefit of the legal community” (2000: 10-11).

2.1.1 Contract

Contract plays a crucial role to the economic advancement of a given society. It is a means by which exchange of goods, services and money is facilitated in a given society. Failing to acknowledge the existence of contract and losing attention to the breach of contract inevitably affect the smooth running of business activities and thus brings about failure of the economic plan of a given country (Krzeczunowicz 1983: iv).

According to Girma (2007: 20), contract can be seen into social and legal. Social contract is a kind of promise that does not have a legal effect. If, for example, Mr. ‘X’ has promised to lend Mr. ‘Y’ a book, such a promise is a social contract which can only be enforced morally. That is, it does not have any legal effect in case Mr.’X’ has changed his mind of lending the book. However, if he has already lent the book to Mr. ‘Y’, such a contract is said to be legal contract. If ‘Y’ fails to return the book, ‘X’ has a legal right to claim the return of the book in a right court. Thus, any sort of promise or agreement to do or not to do something can be called a contract.

According to Article 1675 of Ethiopian the civil code, “A contract is an agreement whereby two or more persons as between[sic] themselves create, vary or extinguish obligations of a proprietary nature.” This article portrays that a legal contract in the language of law is a kind of agreement, which is considered as law, which any two or more persons can create upon things that have a proprietary nature. They enter into such a contract either to perform or to refrain from doing something they willingly include as obligations in the contract. Thus, making parties free to conclude any kind of contract with any kind of consent and obligation, other than those that contravene the constitutional law, the rules of contract facilitate business transactions.

2.1.2 Language in the Legal Context

Jordan (2000:17) unfolds that “Most people who have ... tried to interpret insurance documents are well aware of the challenge of trying to unravel legal language, also called legalese, to decipher the underlying meanings.” This implies interpreting the intended meaning of a legal language requires an expert in the area.

In exposing how difficult it is to understand legal language, O’Barr, as quoted in Jordan (2002: 17), has provided what a lawyer would say, instead of everyday language, in offering someone an orange:

I hereby give and convey to you, all and singular, my estate and interest, right, title, claim and advantages of and in said orange, together with its rind, skin, juice, pulp, and pips and all rights and advantages therein and full power to bite, suck, or otherwise eat the same or give the same away with or without the rind, skin, juice, pulp and pips, anything hereinbefore or hereinafter or in any other means of whatever the nature or kind whatsoever to the contrary in anywise notwithstanding.

One can learn from this text that the lexical and syntactic complexity of legal language is due to the interest of legal scholars to achieve extreme precision. For this reason, accurate interpretation of legal documents by judges is speculated though the opposite situation may be manifested to a non-lawyer. As can be seen in the above quoted text, the inclusion of legal jargons, ordinary words carrying different legal meanings and some metaphorical phrases, in the language of law, complicates the intended meaning. In addition, repetition of the same word, successive use of

synonymous words and phrases such as ‘the truth, the whole truth, and nothing but the truth,’ or ‘to have and to hold’, aggravates problem of understanding meaning.

Therefore, a glance at legal documents shows how uninteresting, unclear and long-winded the legal language is. This compels non-lawyers to be dependent on lawyers for interpretation although lawyers are not necessarily trained to do so. As mentioned in Jordan (2002: 22), law school students get lessons on the activity of translating the semantic content of a legal text into legal norms but not to the reverse. Jordan’s (2002) idea is also true in Ethiopian law schools. That is, they lack linguistic knowledge to interpret semantic content of a legal text.

2.2 Successful linguistic communication

People communicate ideas and feelings to one another by using words in writing and speaking. By listening and reading people extract ideas and feelings from words. Thus, an interpreter’s ability to decode the message as it is encoded by an utterer³ is one key factor for successful communication. However, the expression’s being ambiguous makes the task of decoding the message difficult. To alleviate such a problem, some scholars suggest that interpreters⁴ should determine the kind of meaning an utterer is intended to convey. Successful communication depends not only on understanding the meaning of expressions but also on getting the intention of the utterer in his/her expressions. The intention of the utterer should not be missed in the processes of achieving successful communication.

More than just a common language is required to enable the hearer to identify the speaker’s communicative intentions on the basis of the speaker’s utterances. A shared system of beliefs and inferences must be operating, which function in effect as communicative strategies. (Akamajian et al 369-370)

The implication is that, relating to the context the utterer must use expressions that help the interpreter’s attempt of getting his intention. Likewise, the interpreter is expected to determine the content of the utterer’s utterance in a given context. The speaker’s utterance may have different meaning for an interpreter. They may inform something in the outside world or

³ A person who produces an utterance either in writing or orally

⁴ a listener in a conversation or a reader of a text

something in the speaker's head. This shows how difficult it is to determine whether or not an utterance informs something correctly. Therefore, the meaning of a speaker's utterance may mean more than what the sentences mean although the sentences are free from ambiguity and vagueness.

We can see a similar note in Banch (2005: 19) discussion of language and communication:

Speakers and listeners rely on certain presumptions: speakers in order to make their communicative intentions evident and listeners in order to recognize those intentions. The listener presumes, and the speaker expects him to presume, that the speaker is being cooperative and is speaking truthfully, informatively, relevantly, perspicuously, and otherwise appropriately.

Successful communication results in understanding the intention of an utterer. To understand such communicative intention, the interpreter uses the utterer's sentences according to their use in a particular context. Therefore, successful communication is a cooperative activity in a sense that utterers should be careful enough to select sentences to say what they mean. Similarly, interpreters must be good enough to figure out the utterer's intention in their utterance.

2.2.1 Persuasive Use of Language

People's being obedient to each other's requests, questions and instructions signifies the influence of language on their behavior. Through language, one may get us to do, desire, and believe whatever he wants us to do, to desire and to believe. Gauker (2003: 240) notes, "what people do depends on the strength of their beliefs and the strength of their desires." In strengthening the idea that language affects our perception, Rapoport claims, "A hypnotized person can be made to see a stick as a snake, a cigar box as a coffin..." (1975: 201). In other words, language changes people's perception in such a way that it causes them to do what someone else will.

Persuasion is one way in which language influences behavior. For example, the salesman can give you lots of information to buy a high-priced pair of trousers instead of your decision of buying the low priced one. He hits his target by exposing you to certain stimuli. Pretending to be sympathetic, he could tell you that the trousers will wear longer. As Schiffrin (1994: 99) stated, the way people perceive, behave and act in their interaction through language is exposed to

external influence. So, strengthening people's beliefs and desires, one can convince others to believe things which are incompatible to the reality.

The persuasive use of language can have two different purposes: exploitative and non-exploitative. Abusing the communicative function of language, some individuals can exploit others by making them believe what is bad as good and what is good as bad.

However, exploitative use of language is considered to be a component in the ethics of some professions such as prosecutors and lawyers. For instance, a lawyer is duty bound to offer a strong argument on the behalf of his client in spite of his knowledge that his client does not deserve what is being claimed in civil cases.

2.2.2 Direct and Literal Expressions

To ascertain meaning being conveyed by an utterance, the utterer must expose his intention to the audience. To do this, offering appropriate amount of information, sufficient evidence and the right expression in the right context of an utterance is significant. "The simplest and most straight forward sort of speech act is performed literally and directly. By being literal and direct, a speaker imposes a minimal load on the hearer in understanding what is said" (Akamajian, 2001: 393).

Since direct and literal communication is overt and vulnerable to be identified by interpreters, it enables an utterer to minimize or avoid ambiguity or obscurity of expressions in his utterance. For this reason, as Palmer (1981: 4) states, the utterer should use words literally to say what he means so that his utterance can carry his intention and can address almost what he wants to mean. Soames (2005: 358) claims that a sentence is used with its literal meaning to communicate a proposition the utterer intends to convey when the sentence is used without irony, metaphor, sarcasm, and the like. Grice, as quoted in Akamajian et al (2001: 399) has underlined the importance of obeying certain conversational maxims to convey information. According to the maxims, an utterer's being informative is vital. To be informative implies to provide true information that can be strengthened by adequate evidence. Avoiding obscure expressions and unnecessary ambiguity and verbosity is another maxim the utterer has to follow to communicate his intention effectively.

However, literalness alone is not enough to avoid ambiguity. There must be a supplement of intended inference and shared contextual beliefs. To avoid the possibility of ambiguity and to determine the relevant meaning for the current communication, the interpreter should consider the relevant context of the utterance. A note from Gauker (2003: 142) strengthens this idea: “to accept what someone literally says is to take the context to be one in which the speaker’s utterance is indeed assertible[sic].” In communication, speakers want to address their intention and communication is successful when audiences identify this intention. Otherwise, communication breakdown occurs when the intention of the utterer in his utterance does not match with the perception of the audience in interpreting the utterance (Akamajian, 375-376).

2.2.3 Non-literal Expressions

We sometimes use words to mean different things from what they literally mean. As Palmer (1981: 4) claims, the reason for words carrying meaning different from what they literally mean is because “... there is some other meaning besides the ‘literal’ meaning of the words.”

In addition, any sentence has the potential to be used in a non-literal way. Banch (2005: 27) argues that people do not always make their sentences explicit although they use individual words literally. Depending on their intention, utterers may convey something different from the semantic content of their sentences. He also writes, “We generally don’t say what we mean, not because we are usually insincere but rather because we leave much of what we mean to inference” (2005: 27). The interpreter should make guesses of what the utterer is intended to communicate based on common background information and literal meaning of the utterance.

In an indirect communication, an utterer could mean more than what his utterances literally mean. For instance, one can request someone else to leave the room by saying *the door is over there*. It is by noticing the contextual inappropriateness of the utterance that an interpreter could understand the indirect message of this sentence. The speaker does not need to tell his audience the location of the door under the condition that they both know it. In case of dispute, the interpreter is likely to work out that the utterance is used in requesting him to leave the room. Therefore, *the door is over there* can have two components of meaning: literal meaning, that is, to show the direction of the door to a stranger and non-literal meaning, that is, to request someone to leave a room.

In communication, some information an utterance may carry along may not be expressed in the language. Such information is left unexpressed because it is assumed to be shared by interlocutors. This situation is evident in both spoken and written discourse as noted by Verschueren (1999: 26):

What counts for spoken discourse is equally true for writing. Though written texts form a medium which necessitates certain types of explicit formulation because producer and interpreter usually do not share the same time and space, nor in many cases a joint communicative purpose, they carry along an equal amount of unexpressed information which is assumed to be known.

The idea here is absolute and complete explicitness is not possible in both spoken and written discourse. Assuming the existence of some common knowledge, the producer leaves a chunk of information unexpressed in his utterance. If the interpreter considers this shared knowledge in the process of figuring out the intention of the producer, communication will be successful.

2.3 Linguistic Interpretation

Interpretation refers to identifying the appropriate meaning among the possible meanings of an utterance. It could also mean simplifying or changing the meaning of a given language into the one which is simple enough to understand. Mate (1972: 113) equates interpretation and translation in his definition as follows:

A body of discourse **A** is an interpretation of a body of discourse **B** if and only if **A** is a translation of **B** and the constituent expressions of **A** are better understood than those of **B**. Thus, according to me, every interpretation is a translation. Further, since the degree to which a language is understood varies from person to person, what would be an interpretation for one person may not be an interpretation for someone else. (1972: 113)

According to Mate (1972: 113), both translation and interpretation have the purpose of helping out someone who fails to understand a piece of text. However, I do not entirely agree with this Mate's idea for some reasons. Firstly, translation involves two different languages that have at least different sets of vocabulary, possibly two different types of syntax, morphology and meaning systems. In translation, therefore, the translator changes a text from one code to a different code, that is, from one set of vocabulary into another set of vocabulary by considering the possible difference of syntax, morphology and meaning system of the two varieties. So, the

meaning will be accessible to someone who does not know the first code. However, in interpretation an interpreter changes a body of discourse into the same but simplified code for the benefit of someone who fails to identify the content of the first discourse due to the expressions' being ambiguous or vague. While translation aims at exposing the meaning of a text, interpretation aims at identifying the content of the text. Therefore, translation without being followed by interpretation does not guarantee its contents being identified. For instance, the following English translation of the Amharic idiomatic expression shows such a fact:

k'äs bāk'äs ?ink'ulal bägīru yihedal

lit. “Slow by slow an egg goes on its foot”

The English idiom which is parallel to the above Amharic idiom is 'Rome wasn't built in a day'

Since the English version is still ambiguous, it must be interpreted in literal language for a native or at least a non-native English speaker who does not have good knowledge about English idioms. Another interesting example that can show the difference between interpretation and translation is Article 17 of The Treaty of Wuchale. As explained in Beahru Zewde (2002: 75), this Treaty was written into two different languages: Amharic and Italy. While the Amharic version of Article 17 gave Emperor Minilik II the option of getting Italian services to conduct foreign affairs, the Italian version prevented him from making all his foreign contacts without the will of Italy. In other words, the translation of the Amharic version of the Treaty into Italy did not carry the same content. The reason, according to Robinson (1976: 386), was the inclusion of the Amharic word /yičalaččäwal/ 'will be able to' in the Amharic version of the treaty. This word gave Minilik the right “to request the good office of Italian government in matters of foreign relations, if or when he so wanted” (1976: 386). However, the Italian version of the treaty contained the Italian word 'sarà in facoltà' which obliged Minilik to conduct foreign matters through Italian government. The problem in the two languages of Wuchale treaty was a question of semantic content. Therefore, Mate (1972) fails to see the distinction between meaning and content.

In the work of interpretation, analyzing words, phrases and sentences helps to gain the possible assumed or intended meaning of a text. Gomm (2008: 297) notes that a piece of writing or speech exposes what people think, understand and act in accordance with the norms of their society. For this reason, an interpreter gets insight into the minds of a speaker/writer of a text.

The claim of Strauss and Corbin (1998) shows that in spite of the possible meanings assigned by individuals, what people say in their text does not necessarily mean what they mean. It is the concern of an analyst to discover what people intended by their action or by the incident indicated in the text. Such a discovery is possible by looking for obscure meanings the data can address over and above its surface meaning. Another scholar notes that instead of confining themselves to the investigation of literal meanings of a document, analysts seek an understanding of the deeper latent meaning of a document. Content analysis involves uncovering the attitudes and values of the writer and the effects of the communication on the intended audience (Prior, 2004: 76).

Therefore, the semantic content of a particular text is every possible meaning that could be extracted from the text by means of linguistic rules of interpretation. To interpret a text is to identify these possible meanings. The validity of interpretation of a text should be measured in terms of its efficacy of communication. Kempson said, "Since language is the vehicle by means of which we effect communication, it is arguable that the interpretation of language should be explained in terms of its role in communication" (1977: 12). For this reason, legislatures should formulate provisions of law in a language that is understandable to members of a given society. Similarly, parties should conclude contracts or wills in a language clear enough to get their intention. To enable interpreters understand the language of the text, utterers may address the meaning of their words, phrases or sentences by a synonym, denotation and connotation.

2.3.1 Synonymy

Lexical items whose forms are different but whose meanings are the same or nearly similar are called synonyms (Saeed 2003: 65). According to Palmer there are no two words whose meanings are exactly the same in any language. Therefore, the synonymy of lexemes does not require interchangeability in all contexts (1981: 89). To use a synonym implies to use another word that has the same or nearly the same meaning. Among the different ways of claiming synonymy one is to use like 'A; in other words, B'—for instance, "I hate this fruit; in other words, I loathe this fruit." Another is to use the formula 'when I say A, I only mean B'. One scholar argues the synonymy of two words with respect to truth value: "two expressions are synonymous in a language L if they may be interchanged in each sentence in L without altering the truth value of that sentence" (Mates 1972: 119). Mates (1972) has the idea that the term that replaces an

expression in a sentence without changing the truth value of the sentence causes the resulting sentence synonymous with the original sentence.

2.3.2 Denotation and Definition by Extension

Denotation refers to making the meaning of a term clear by exhibiting typical examples of the referent being defined. However, the typical example of the thing under consideration may not represent all instances that must be denoted by the word. To alleviate or at least minimize such a problem, Rapoport (1975) has proposed definition by extension which refers to listing all the members of the class to which the denotation of a word can apply. For example, we can define vegetable by enumerating them. If we have not named cabbage in the list, an interpreter may be in trouble to decide the inclusion or exclusion of cabbage under vegetable and may be at a loss. He has noted, "The most useful feature of denotative definitions is that they delineate exactly the range of application of a word. For this reason, these definitions are often used in legal documents, where the range of application of words should be clear" (1975). He has also explained the importance of extensional definition to specify 'close relatives' in matters involving the law. For example, in matters pertaining to obligation of marriage, the Revised Family Code, Article 8 portrays the level of blood relations: 8.1 "Marriage between persons related by consanguinity in the direct line, between ascendants and descendants, is prohibited." 8.2 "In the collateral line, a man cannot conclude marriage with his sister or aunt; similarly, a woman cannot conclude marriage with her brother or uncle." While these sub-articles explicitly prevent marriage between individuals who have relations such as father-daughter, mother-son, uncle-niece and so forth, they do not say anything about nephew-niece relation. This implies that nephew-niece relation does not prevent marriage. Therefore, definition by extension provides the range of denotation of a word and thus enables one to identify whether something is or is not in the range of denotation of the word.

2.3.3 Connotative Meaning

Connotative or intentional definition refers to defining a thing in terms of its traits or properties. For this method, Aristotle's formula as explained by Rapoport (1975: 121) is used: "name a class to which the thing to be defined belongs, then state the properties that distinguish it from other members of the class". In some cases, it may be difficult to delineate the reference of a word. In

other cases, listing members of a class may not be exhaustive because of their being too large to enumerate. As a result, denotation and definition by extension methods may not work. Instead, intentional method is called for such situation. We have seen that connotation is used in the perspective of the properties of the thing defined. Connotation is also used in the psychological aspects. The psychological sense of a word may be different for different individuals, that is, the word evokes different attitudes in the mind of different individuals.

2.4 The Importance of Context

The meaning of a word or an expression, either spoken or written, is usually determined by its contexts. As stated by Miller (2003: 75), context of an utterance provides shared assumptions so that it exposes the meaning of words, phrases or sentences which is used beyond their literal meaning. Claiming the importance of context in determining the proposition of a sentence, Gauker (2003: 13) notes, "... sentences may fail to express a proposition all by themselves, but may nonetheless express a proposition in a context. When a speaker utters a sentence in some context, we may describe the proposition that the sentence expresses in that context as *what is said*, or *what the speaker says*." Strengthening how ambiguous a sentence could be, Gauker also adds that a sentence does not communicate any particular proposition if it appears without context (P.12). Thus, a sentence or an utterance could have variety of meanings and become ambiguous if context is disregarded.

Context of utterances implies many things such as time, place, situation, co-text, general knowledge and so forth. In explaining the importance of context in the identification of meaning in case of ambiguity or vagueness, Saeed writes, "in example of vagueness the context can add information that is not specified in the sense, but in examples of ambiguity the context will cause one of the senses to be selected" (2003: 61). Lyons claims that utterance meaning refers to not only what is actually said but also what is implied. In order to work out the implied meaning of the utterance, the role of context is indispensable (1995: 265-66). Context provides the missing real-world object, property, time, place and so forth and join the linguistic content of the word or phrase to yield what is asserted, stated or claimed (Stainton 2005: 30). In stressing the significance of context to convey a proposition, Stainton (2005: 385) has provided some note:

In order to treat the speaker as genuinely communicating, in a relevant way, the hearer must look for a proposition which the speaker meant to convey.... The hearer, therefore, must not only recover the semantic content of the word or phrase, but must also draw on linguistic and non-linguistic information, from context, to supply the missing property or the missing object.

Explaining how context determines meaning of sentences, Gauker (2003: 74) states that the proposition of a speaker may not coincide with the proposition of his sentence because the speaker's words may fail to convey his intention on certain occasions. Therefore, to work out such intention, context fills the gap between linguistically encoded content and what the speaker has conveyed beyond his words. Regarding the importance of such nonlinguistic aspects for effectiveness of communication, one scholar has noted the following:

A written transcript of speech or a conversation or a trial may be highly misleading, since, even with all the standard devices of punctuation, it cannot transmit the intonation, the steady gaze or shifting eye-movement, all the nonverbal facts that may have conveyed to a juror, for instance, the sense that one witness was lying and another telling the truth when both spoke the same word. (Parker-Rhodes 1978: 49)

Therefore, the situation and the way in which the utterance is made are crucial to determine the meaning of the utterance. In addition, context includes the entire state of affairs at the time and place of the utterance. In other words, an utterance can mean different things when uttered in different time and place. For example, the meaning of the expression 'the price of ten grams of twenty-one carat gold' may mean Birr 1,780 and 9,450 when interpreted in the years 2000 and 2010 respectively. Similarly, 'the price for a quintal of coffee' could mean Birr 7,000 in Gondar but Birr 4,000 in Harar.

2.4.1 Deixis

The immediate time-space situation of an utterance is also important context to decode personal pronouns and demonstratives. If we are exposed to a written sentence containing personal pronouns like *you*, *I*, *she*, demonstratives like *this*, *that*, place adverbs like *here* and *there* and time adverbs like *now*, *next week*, we find it significant to know contextual information. Such contextual information enables us to identify who wrote the text, to whom it is written, when and where it is written and so forth. The need for contextual support to understand, for example, personal pronouns arise because of their being shorthand devices. Such shorthand devices are

called deixies (Saeed 2003: 182; Levinson 1983: 54). To depict how deictic elements move from participant to participant Rosten, as quoted by Levinson (1983-68), used a Yiddish story. In the story it is shown that a husband wrote a letter, containing a sentence '*send your sandal by giving to this boy*' to his wife in order that his wife will send his sandal. The husband's reason for using *your* in the letter is to let his wife understand her husband needs his sandal not hers. The idea is that it is confusing and difficult to determine what deictic element in a text refers to who or what referent, without relying on context.

In order to interpret time deixis, it is important to know coding time and receiving time. The word *now* is, therefore, interpreted as the time the utterance was made and *next week* means one week after the time of the utterance. If, for example, the phrase '*I will deliver you ten quintal of sugar on Saturday*' is included as obligation of a party in a contract, it will be difficult to interpret which Saturday of the year the sugar will be delivered. To alleviate such ambiguity of common noun units like week, month, etc. a deictic modifier such as *this*, *next* and *last* should be attached to them.

Place deixis pertains to the locations associated with a fixed reference point indicated in the speech. An utterer can specify the location of something relative to a fixed reference point. Such a fixed reference point can be named. For instance, a party can mention the name of the place where delivery will take place. Another way of specifying the location of a thing is using place deictic words like *here* and *there*. This way of specifying location of something is interpreted related to the location where the utterance was made. For example, in the sentence '*you will bring me the cost here and I will deliver you the goods there*', the word *here* implies the location of the utterer and the word *there* refers to the location of the addressee.

2.4.2 Linguistic Context

Co-text is one of the linguistic features of a text that concerns to the use of expressions referring to some part of a text. It includes words, phrases, sentences or a paragraph that surrounds a given word or sentence and that gives idea about the neighboring linguistic elements. In explaining co-text as specific references included in a sentence, Gillian and Yule (1983:46) write, "any sentence other than the first in a fragment of discourse, will have the whole of its interpretation forcibly constrained by the preceding text..." According to Kenworthy (1991: 99), examining the

interdependent relation of words, phrases and sentences in a text eases the work of interpretation. Likewise, Verschueren (1999: 104) has noted, "discourse itself forms a dimension into which linguistic choices are contextually anchored, for instance, by referring back to earlier discourse, by being self-referential, or by projecting towards a future linguistic context." The implication is that co-text provides information about the intended meaning of a sentence. One of the linguistic contexts that play a crucial role to understand the idea relationship between sentences in a text is contextual cohesion. As Levinson (1983: 87) ascertained, contextual cohesion is enhanced in most languages by the existence of many words and phrases that are used in a text to show what sort of relationship exists between an utterance and the following or the preceding discourse. For instance, the use of expressions like *consequently*, *as a result*, *therefore* between sentences or paragraphs shows the idea in the sentence that followed such expressions is the result of the idea in the sentence that preceded them. Saeed (2003: 105) claims that contextual cohesion can be manifested in a number of ways: the use of conjunctions, anaphora, demonstratives, punctuation, words of exemplification, summary, comparison, contrast, result, reason, and so on.

2.4.3 Background Knowledge

People understand one another through language not because language communicates everything but because there are things that both producers and interpreters have in common. Such things may not need to be addressed in language because they are implied from their encyclopedic knowledge. In other words, there are referential meanings that a word or a phrase refers to and there are inferential meanings that are not stated in the language uttered (Saeed, 2003). As discussed by some scholars, encyclopedic knowledge enhances interpreters to predict the kind of information an utterer has assumed and to decide the right meaning of an ambiguous expression in a given text (Gillian and Yule, 1983: 236; Kenworthy, 1991: 109). People can acquire such knowledge by virtue of being native speakers of a particular language, citizens of the same country, members of the same sports team, religion, or political party and so forth. The example used in Saeed (2003: 193) shows how important common knowledge is for understanding an implied meaning of an utterance:

A: Can you come for lunch tomorrow?

B: It's Ramadan!

In this conversation, **B**'s reply has the implication of 'No'. **A**'s understanding of **B**'s intention is due to the fact that either both **A** and **B** are Muslims or **A** knows that **B** is Muslim and that Ramadan is a fasting time for Muslims. This **A**'s understanding of **B**'s reply is possible by retrieving information from his memory. Therefore, one way of supplementing linguistic communication is that a speaker utters a sentence expecting some common knowledge shared with an interpreter. And the interpreter uses his knowledge and experience to understand a text. If the interpreter fails to calculate such common knowledge, there may be some aspects of knowledge gap between the producer and the interpreter. For effective communication, such knowledge gap should be repaired. Asking and answering questions, paraphrasing, explaining are some of the aspects of repairing during conversation. In writing, the encoder should supply readers with every necessary information and leave no room for questions. The writer should access such information, for he/she is not accessible to answer questions and to give explanations at the time the text is read. This does not mean that the importance of common knowledge in written text is nil. Identifying his/her readers, a writer leaves a lot of information unexpressed, for readers to fill. For this reason, understanding both oral and written texts require both producers and interpreters to have some common knowledge of the issue under discussion.

2.5 Ambiguity and Vagueness

The sources of ambiguity may be phonological, lexical or sentential. Lexical ambiguity appears due to the fact that the same word form may convey more than one sense. The meanings of a word may or may not be related in sense.

If meanings of the same word form are related, we call them polysemy. The word's being ambiguous is clearly seen not in its isolated form but rather in its use in a phrase or a sentence. We feel that "the individual words are unambiguous but their combination can be interpreted in two or more different ways" (Ullmann 1962: 158). To illustrate how ambiguous a word can be in a phrase, one scholar uses the word '*good*' in the sentence, "she has good legs". He claims that 'good' here could mean healthy, beautiful or strong (Kempson, 1977).

If the same word form has unrelated meanings, they are called homonymy. The unrelated meanings of the same word form are represented by different lexemes. The meanings being assigned to different lexemes show that they are different words whose forms are the same. Like

polysynonymous words, homonymous words exhibit different interpretation of a phrase or a sentence. For example, the word *bank* has two different meanings in the sentence *I went to the bank*. The first meaning of bank could denote a financial institution whereas the second the side of a river. Unless an interpreter works out the intended meaning of the utterance from the available context, the word bank remains ambiguous. Leech claims that ambiguous sentence communicates two or more propositions. He also points out, “ambiguity is a one-many relation between sentences and sense ...” (1981: 79). Therefore, the meaning of a word either polysynonymous or homonymous will be determined in the context it is used. As Ullmann (1962: 168) writes, the multiple meanings a word could have, do not hamper communication as long as “one of them can make sense in any given situation”

Another factor that causes problems of determining a specified meaning is vagueness. The problem of vagueness arises not from the way we assign meanings to linguistic symbols but from the fact that each word is not made to refer to separate things. Regarding to this idea, Ullmann (1962) argues that the source of vagueness is “the generic character of our words.” In explaining generic character of words he notes “Except for proper names and a small number of common nouns referring to unique objects, words denote, not single items but classes of things or events bound together by some common elements” (1962: 118). Therefore, vagueness refers to a word, a phrase or a sentence that is unspecified by contextual information.

Kempson has proposed the existence of four types of vagueness: referential vagueness, indeterminacy of meaning, lack of specification in the meaning of an item and disjunction in the specification of the meaning of an item (1977: 124).

In her explanation of referential vagueness, Kempson shows how difficult it is to determine the use of some words such as *town* and *city* for a given place. Although city is defined for large places and people and town for small ones, it is difficult to specify how small and how large the size of the place and the number of people are. As a result, what people consider city in a certain part of the world may be called town in another. The same confusion appears in Amharic with pairs of words such as /tärara/ ‘mountain’ and /got/ ‘hill’, /wänz/ ‘river’ and /žirät/ ‘tributary’.

The second type of vagueness which is related to the meaning of an item or phrase being indeterminate and intangible can be exemplified by the possessive construction. For instance,

from the phrase *in Peter's school*, it is difficult to determine whether it means the school Peter owns, teaches, learns, or directs.

The third type of vagueness refers to the item being unspecified in terms of its distinguishable features. For example, an item *car* is unspecified if someone who has three cars says that he will sell his car. Whether he means his Toyota, Mercedes, or Nissan car is subject to interpretation.

The fourth type of vagueness is “where the meaning of an item involves the disjunction of different interpretations” (Kempson 1977: 126). This type of vagueness occurs due to the fact that one of the disjunctions is exposed to have more than one interpretation simultaneously. To appreciate the different interpretation of disjunctions, it is important to consider the example sentence below:

- Applicants for the job should score the exam above 50% or should bring at least 5 years experience.

The word **or** contributes to the sentence to be true in one of the conjuncts. One possible meaning is that the applicants are required to score the exam 51% and above without having 5 years experience. The second meaning requires the applicants to have 5 or more years experience though they fail to score the exam above 50%. The other possible meaning is that it is possible to score the exam above 50% and at the same time to offer a minimum of 5 years experience.

2.6 Legal Interpretation and Semantic Meaning

Legal interpretation is an intellectual activity of identifying the normative message in the legal document, which may be written as a constitution, a contract or as in oral will or contract. There are two types of legal interpretation: broad and narrow. Broad interpretation, according to Barak (2005), is filling gaps in the text by including an implied term or by correcting the language of the text. Such activity can be considered as part of interpretation as long as it does not cause deviation of sense from the text. Interpretation in the narrow sense is used when the text is unclear or when a difference of opinion arises upon the terms of the text. Thus, giving meaning to a contract, a statute, and so on is an interpreting activity that can resolve contradiction within a text or within two contracts and so forth.

Legal interpretation, therefore, is a process of extracting the legal meaning of a text from its semantic content. Determining the linguistic meanings of a text should be a prerequisite to identify the normative meaning. Finding out the normative content of a text comes then. Therefore, an interpreter should have both legal and linguistic knowledge. As a linguist, an interpreter ascertains the possible semantic content that a text is capable of bearing and as a lawyer he or she determines the meaning pertaining to legal norms.

CHAPTER THREE: RESEARCH METHODOLOGY

In this research, qualitative method that targets the interpretation of contract cases by judges in Amhara Regional State is used. In order to provide a reach understanding of such issues, it is important to investigate the interpretation of contracts from semantic-pragmatic perspective. This chapter focuses on reasons for using the qualitative approach of mainly document analysis.

According to Bryman (1984), the method of investigation is determined by the problem being studied. For this reason, to have a deep understanding of the problem and to gain real and rich data, I choose the qualitative approach. The qualitative approach is selected to understand the issue under investigation and to get insight of the problem rather than to have statistical analysis. In strengthening this idea, Amare (2004), citing Denzin and Lincoln (2003), notes that qualitative approach concerns the quality of matters and meanings that are not subject to experiments and mathematical tools.

Qualitative method helps me to see how the interactions of members of the society in business activities are going smoothly and what implication do such interactions have to them. In short, qualitative research achieves understanding of issues focusing on people's words, actions and records. Gomm (2008) states that the interest of researchers in studying people's experiences and senses of the world is realized in qualitative research. Similarly, Miller (1997) claims that researchers use qualitative research when they target mainly at describing and analyzing the process of social realities and social relations. The argument of Marshal and Rossman (1980) discloses the understanding of human behavior as being derived from interpreting what they do, feel and think. Thus, being furnished with unique and common features of peoples' interactions in their contract, I can use qualitative method to analyze the implications of words of contracts.

Therefore, in this study, a description of semantic-pragmatic features of contracts and comparisons of interpretations are significant to evaluate different decisions that judges in different court levels have given. Comparison is a key to find out the merits of interpreted works. Each level of courts should study and interpret each constituents of a contract court case. For the purpose of this study, comparison of interpretations (or court decisions) is significant to evaluate to what extent the interpretations retain or dispartate the sense of the text of contracts. Comparison of interpretation is also used to find out in which court level the adequacy of interpretation is achieved.

The number of different interpretations that a contract case may have depends on the number of courts that treat the contract. Interpreted works could be evaluated by comparing them with the standard works of interpretation in line with the literature. Correctness and appropriateness of interpretation and the maintenance of senses are measured against the degree of correspondence with the senses of the text in a contract. Assessing whether or not interpretation considers the sense of the text requires considering semantic-pragmatic aspects of the text in the documents.

3.1 Document Analysis

Documents are one major source of data, for written materials hold the phenomena that researchers are interested to investigate. Since documents are produced, shared and used in the process of social organizations and interactions, words of documents portray places and social facts at the time each document is created. Therefore, they provide researchers with direct accounts of people involved in their social situations.

This study is conducted based on primary documents. The primary documents are court decisions, arguments of parties (or lawyers), the eye-witnesses' words as recorded by a court and contracts that are written by parties who experienced the particular events of the contract.

3.2 Sampling

In order to find out the adequacy of interpretation, treating different types of contract cases are indispensable. In addition, a comparison of different court decisions of each individual contract is mandatory. For different reasons, I was forced to take selective but representative samples of different contract types from the court decisions and compare them in detail. First, although the number of contract court cases is numerous, each type of contract underlies the same or at least similar principles. Second, for a thesis of limited scope like the present one, it is tiresome and unwieldy to treat many contract cases of the same type. Besides, it is cumbersome to go through the contract, written and recorded oral evidences and court decisions of each contract court cases page by page. Therefore, collecting 56 contract court documents and reading them thoroughly I managed to select 5 contract court cases that contain interpretation problem. Thus, including contracting parties from rural areas and towns, contract court case selection was determined purposely by the kind of contract cases. Two from sale, two from will and one from employment are considered.

CHAPTER FOUR: DATA ANALYSIS

In the attempts of making this paper come to fruition, I have identified and classified contracts according to their types. Different contract court cases are likely to hold different documents such as contract of parties, receipts, written evidence, auction letters, courts' judgments, recorded oral evidence and so forth. From such documents, data about the form of documents and about language aspects are collected. Such aspects of language cause ambiguity for some reasons. First, meaning difference of a word or a phrase for different interpreters may be attributed to wrong application of synonymous words. Second, some words of a document's text may be used in their general meaning that is not specified to address particular things. Third, the use of conjunctions may expose a sentence for different meaning options. Finally, linguistic contexts may be overlooked in interpreting the intention of a decoder. Therefore, in order to collect such aspects of language as data of the paper, a through reading is done. The collected pragmatic features, words, phrases and sentences that contribute to different interpretation of contract texts and provisions of contract law are organized, sorted and analyzed according to their nature. As Bogdan and Biklen (1992) have explained, discovering the important aspects of the language of texts of any document pertaining to the problem under investigation enhances interested people to learn from the data.

Mentioning some of the processes, Merriam (1998) indicates the complexity of analyzing qualitative data. She claims that it involves reading between lines, moving back and forth, identifying concrete and abstract concepts, examining inductive and deductive reasoning and providing descriptions and interpretations.

I refer to the documents to look for incidents or words that will point to the intended meaning by listing the possible meanings of words, phrases and sentences. Finally, I manage to identify the most accurate interpretation and do a comparative analysis between or among court decisions based on the data.

Consequently, the following criteria which are adapted from Henn et.al (2006: 106) have been used to ease the activity of my analysis.

To see the authenticity of a contract document and other written evidence, the appearance of different versions of the same document is checked. For this reason, the consistency of the scripts of such documents is assessed to verify whether or not the document is deliberately changed or falsified. This in turn may prove whether the writer has been engaged in any deception to achieve his/her material interest or not. In addition, checking the inclusion of the required format in the contract documents will help to examine courts' judgments.

In evaluating the fulfillment of necessary elements of a contract, the purpose of the document, the obligation of parties in their contract and the types of evidences offered by parties are to be assessed. Moreover, the form (kind) of will, the need of the testator in his/her will, the reason for the testator in claiming the performance of the will as expressed, the education level and the health condition of the testator are to be discovered.

The following two groups of criteria have been adapted from Gomm (2008: 317) in verifying the validity of oral evidences.

1. Did the witnesses' physical and temporal location allow them to observe what was claimed?
2. Was the condition of observation conducive to accurate observation?
3. Were their senses adequate for observation?
4. Did any of the witnesses have bias which might have led to misinterpretation? If the answer is yes, what effect might the witness want to create?

In the attempt of collecting data pertaining to the texts' language of contracts and contract provisions of contract court documents, the following questions are used.

1. Which text of the document causes argument?
2. What words, phrases and sentences of the contract text are subject to different interpretations?
3. What is the possible internal contradiction in the text?
4. What are the possible literal meanings of the statements in the text?
5. What are the meanings of the statement(s) over and above the literal meaning?
6. What meanings are assigned by the plaintiff, the defendant, low court, high court and Supreme Court?

7. What are the provision(s) cited by plaintiff, defendant, low court, high court and Supreme Court?
8. What words, phrases or sentences of the contract provisions are subject for different interpretation?
9. Which provision(s) matches with the case?
10. What aspects of the text's language support the judgment of a court?
11. Which meaning pertains to the law?

Based on the above criteria, an attempt is made to analyze the data of different court cases of contracts. First, an interpretation of the arguments of parties is made. Second, the main points of judgments of each court are interpreted. Then, the different interpretation of words, phrases and sentences of each document and the cited articles by courts and parties are listed. Finally, a comparison of court judgments is discussed.

4.1 Sale Contract Court Case –1

4.1.1 Argument of Parties

This court case has first been instituted in Awi Zone High Court. The reason for the dispute of parties is a contract of sale. In the contract, the plaintiff ⁵has agreed to buy 404 poles of juniper wood each for Birr 92.42. Abanja Shikudad Woreda Agricultural and Rural Development Office (ASWARDO) has the obligation of delivering such poles of wood which were cut and gathered in Beterya Forest. Appendix 1(a) shows their agreement in the contract.

The case instituted to Awi Zone High Court by the plaintiff is for Birr 39,200.32. The applicant has explained that he won the auction bid to buy juniper wood cut and gathered at a place called Beterya Forest. He added that he has paid the entire price by observing the sample of wood and by ascertaining its quality for lumber. Appendix 1(d) gives the entire arguments of both parties.

According to his application, although he has performed his obligation of paying the price, ASWARDO is not willing to provide the plaintiff such wood according to its obligation. Instead, the office has forced him to accept wood that he has not won during the auction. The wood that

⁵ The name given to the party who has first accused the other party to the first level of court.

is offered to him does not have the quality for lumber. In addition, this wood is found away from the agreed place. Mentioning the above reasons, the plaintiff has claimed to the court for the cancellation of the contract according to Article 1771-1 of the civil code.

On the other hand, the respondent's representative who is the prosecutor of Awi Zone has pointed out that ASWARDO has offered the plaintiff poles of juniper wood according to their contract. He has explained his accusation by mentioning different points. First, although the auction notice indicates the wood being cut in Beterya Forest, it does not say the wood being put only in the forest. Second, although the wood is cut in Beterya Forest, it is put in the nearby village in order to protect it from theft. The prosecutor has admitted that the wood which can easily be moved by people has been moved to the nearby village. The remaining wood which is too weighty to move by people is kept in the forest.

In objecting the argument of the plaintiff for the cancellation of the contract, the prosecutor has explained that contracts are invalidated only under the condition of duress, deceit or mistake of parties on the onset of the formation of a contract. However, the contract of the case at hand is legal. In addition, he says that the auction notice and the contract do not say anything about the purpose for which the wood is sold. For this reason, there are no criteria set in the contract as to the quality of wood. Therefore, ASWARDO did not have any knowledge whether the plaintiff will use the wood for charcoal or lumber. Finally, interpreting a word of the auction letter /yätäsäbässäbä/ 'collected' as *it was gathered together* rather than kept at one place, the prosecutor has argued that keeping the wood at two places does not bring a change in its quality.

4.1.2 Oral Evidences

Having read the arguments of parties, Awi Zone High Court has ordered parties to bring witnesses in order to ascertain whether or not the poles of wood are cut in Beterya Forest. As a result, the plaintiff has dictated that his witnesses will verify the poles of wood exposed in the auction are cut and collected from Beterya Forest and kept there. They will also attest that ASWARDO has intended to deliver poles of wood which have poor quality for lumber. In addition, they will prove that ASWARDO has provided the plaintiff most of the wood one kilo meter away from the forest.

Two of the plaintiff's witnesses have briefed the court that they were ordered by their master to see the quality of wood before the auction. They said that they went to Beterya Forest and observed about 200 poles of wood whose thickness ranged from 18 to 25 cm. Since such thickness fits for lumber, they advised their master to buy such wood up to for one hundred Birr.

They have also explained that one day their master told them the refusal of ASWARDO to perform its obligation of the contract. Being ordered by their master again to check the quality of the wood, they said that they have observed the wood collected around a church. Examining the poor quality of the wood, they said that they have advised their master not to buy it. However, they explained that they have no knowledge as to which wood the parties have agreed in their contract.

On the other hand, the witnesses of the defendant⁶ have explained to the court that ASWARDO has offered the plaintiff poles of wood which are cut in Beterya Forest although they are collected together in different places. They also attest that the sticks of wood ASWARDO has offered to the plaintiff are exactly those mentioned in the auction letter.

4.1.3 Judgment of High Court

In the process of giving judgment, Awi Zone High Court has investigated whether or not the plaintiff has good and legal reason to claim cancellation of the contract based on Articles 1696, 1697⁷, 1698⁸ and 1699⁹ of the civil code. As a result, the court has stated the contract's being free from mistake, duress or deceit. Rejecting the application of the plaintiff for cancellation of the contract, the court has finalized the argument by maintaining the right of the plaintiff to request ASWARDO for the performance of its obligation according to the contract.

⁶ It is the name given to the party who has first been accused by the other party to the first level of court

⁷ The party who invokes his mistake shall establish that he would not have entered into the contract, had he known the truth.

⁸ A contract may be invalidated on the ground of mistake as defined in Art. 1697 where such mistake relates to an element of the contract which the parties deem to be fundamental or which is fundamental, having regard to good faith and to the circumstances in which the contract was made.

⁹ A contract may be invalidated on the ground of mistake where:

- (a) the mistake relates to the nature of the contract: or
- (b) the mistaken party has undertaken to make a performance substantially greater or to receive a consideration substantially smaller than he intended.

4.1.4 Judgment of Supreme Court

Since the plaintiff has appealed to the Supreme Court, the court has investigated whether the applicant has good reason for the cancellation of the contract or not. Based on the written evidences, the court has come to know the existence of contract between parties for the sale of 404 poles of juniper wood. The Supreme Court has stated that parties have not mentioned the thickness of the wood in their contract. Since the quality of wood is not indicated in the contract, the plaintiff does not have legal right to request the invalidation of the contract. However, the plaintiff's right to request ASWARDO for the performance of its obligation in the contract is maintained. Moreover, cancellation of contract according to Article 1696 of the civil code is possible whenever one of the parties has given his consent by mistake, deceit or duress. Since such condition is not observed in this contract, the contract is not exposed for cancellation. The sense of Article 1771-1 of the civil code is that one of the parties can claim either the performance or the cancellation of the contract on the condition that the other party has failed to perform his obligation. Coming to the case at hand, ASWARDO has offered evidences that ascertain the wood being collected into two different places are cut in Beterya Forest. Finally, rejecting the appeal and affirming the judgment of Awi Zone High Court, the Supreme Court has stated the obligation of ASWARDO to offer the wood according to the contract rather than to cancel the contract.

Table-1

The form of the contract document

No	Questions	Yes	No
1.	Are there differing versions of the available document?	x	
2.	Does the document fulfill the required format?	x	
3.	Is there consistency of handwriting?	x	
4.	Is the document deliberately changed or falsified?		x
5.	Has the writer engaged in any deception to achieve	x	

Table -1 shows the appearance of two versions of the auction. The second text of the auction appears due to the fact that the first auction has been cancelled. The contract has been prepared according to the legal format. For this reason, no party has raised an argument as to the form of the contract.

The answer to question number 5 of this table shows that ASWARDO has been engaged in deception for the following reasons. First, it has reworded the first auction notice by changing the phrase /yätäk'orrät'anna band bota yätäsäbässäbä/ 'cut and collected at one place' into /yätäk'orrät'anna yätäsäbässäbä/ 'cut and collected'. It might have omitted /band bota/ 'at one place' deliberately in order to hide information about the poor quality of wood gathered in other places (see appendix 1(c and d)). Second, it has not included, in the contract, the places where some of the poles of wood are kept. For this reason, the plaintiff has not got a chance to observe the entire wood. Offering thick poles of wood collected in the forest as sample during the auction, ASWARDO might have intended to sell thin poles of wood kept in a hidden place. Besides, it does not include the purpose or quality of the wood. This act of AWARDO matches with the idea of Schiffrin and Gauker that ascertains the use of language to convince others in believing something that is incompatible to the reality.

Table-2

Criteria to the Elements of a Contract

No	Questions	Answers
1.	What is the purpose of the document?	For sale of wood
2.	What is the obligation(s) of the plaintiff?	Pay the entire price & collect the wood within 45 days
3.	What is the obligation(s) of the defendant?	Deliver 404 poles of wood
4.	What Supporting evidence are offered by a) the plaintiff? b) The defendant?	The auction notice, contract & witnesses

As depicted in table two, the plaintiff has been obliged to pay the entire price of the wood and collect the wood within 45 days. The defendant has been obliged, in the contract, to offer the plaintiff 404 poles of juniper wood according to the sample demonstrated in the auction. To verify their arguments both parties have attached written evidence and individual witnesses.

Table-3**The Validity of Oral Evidences**

No	Questions	Plaintiff's Witnesses		Defendant's witness	
		yes	no	yes	no
1.	Did the witnesses' physical and temporal location allow them to observe what was claimed?		x	x	
2.	Was the condition of observation good for accurate observation?		x	x	
3.	Were their senses adequate for observation?	x		x	
4.	Did any of the witnesses have bias which might have led to misinterpretation		x		x

As portrayed in table 3, the plaintiff's witnesses did not have opportunity to observe all the wood agreed for sale. They have observed only 200 poles of wood that are about 18 to 25 cm thick. On the other hand, since the witnesses of the defendant are members of the auction committee, they have good knowledge of the wood on sale.

According to the criteria set for language data, some words in the following Amharic phrases of the contract are subject for different interpretation:

1. /bäbätärya yämmiggäññäw yäfaräng s'id/

Literal meaning: 'the juniper wood available in Beterya'

Implied meaning: 404 poles of juniper wood found in Beterya

Meaning to plaintiff: 404 poles of juniper wood which is thick enough for lumber and found in Beterya Forest

Meaning to ASWARD: 404 poles of juniper wood from Beterya

Meaning to High and Supreme courts: 404 poles of juniper wood from Beterya

2. /yätäk'orät'anna yätäsäbässäbä/

Literal meaning: 'cut and collected'

Implied meaning: cut and collected at one place; cut and collected at different places

Meaning to plaintiff: cut and gathered together only in Beterya Forest

Meaning to ASWARD: cut in Beterya but collected anywhere.

Meaning to High and Supreme courts: cut in Beterya but collected anywhere.

The conflict of interpretation by high court and parties arises due to THEMATIC roles of source and GOAL¹⁰ of the poles of wood. That is, while the plaintiff assumes the SOURCE¹¹ and the GOAL of the poles of wood is Beterya Forest, the defendant has argued that although the source of the wood is Beterya, its goal is two different places.

Articles 1696 and 1771 of the civil code are used in the arguments of parties and in the courts' judgments. To see what different meanings parties and courts have given to these Articles, it is important to write the sentences of each Article.

Article 1696 of the civil code says,

/wıl yämmifärsäw kätawawayoçč yandäññaw mäfk'äd bäsihitāt bādingātāñña tñnkol
wäyim bähayl yätägäñña sihon näw/

Literal meaning: 'A contract may be invalidated if it happens that a party gives his consent by mistake or under deceit or duress'

Implied meaning:

1. A contract is subject for invalidation if only if a party claims to court by raising one of the following possibilities: his consent is given because of
 - a) his misunderstanding or erroneous belief,
 - b) an intentional false statement of fact by the other party,
 - c) a threat of harm to compel him by the other party,
 - d) his misunderstanding or erroneous belief and intentional false statement of fact by the other party,
 - e) his misunderstanding or erroneous belief and a threat of harm to compel him by the other party,
 - f) an intentional false statement of fact by the other party and a threat of harm to compel him by the other party.
 - g) his misunderstanding or erroneous belief, an intentional false statement of fact by the other party and a threat of harm to compel him by the other party.

Meaning to plaintiff: _____

¹⁰ It is the entity towards which something moves (Saeed, 2003).

¹¹ It is the entity from which something moves (Saeed, 2003).

Meaning to the defendant and courts: although they take the implied meaning, they interpret the word *invalidation* as synonymous to cancellation.

Article 1771-1 of the civil code says,

/kätawawayočču ?andu yäwılun gıddeta yalfäs's'amä ?ındähonä lelaw wägän ?ındä nägäru aggat'ami huneta wılun ?ındifäs's'imillät lit'äyyik' yiçilal; yihim bayihon yäwılun mäfräs rasu lit'äyyik' wäyim ligäls' yiçilal/

The English version says: “Where a party does not carry out his obligations under the contract, the other party may, according to the circumstances of the case, require the enforcement of the contract or the cancellation of the contract or in certain cases may himself cancel the contract.”

Implied Meaning:

If one of the parties has failed to perform its obligation of the contract, it is possible for the other party to

1. claim the enforcement of the obligation in the contract;
2. claim the cancellation of the contract;
3. cancel the contract himself.

Meaning to plaintiff: The courts should cancel the contract, for ASWARDO has failed to perform its obligation.

Meaning to the defendant and courts: ASWARDO should be requested to perform its obligation.

As has been discussed in the court case, the plaintiff has claimed cancellation of the contract since ASWARDO has failed to perform its obligation. The plaintiff's claim can be covered in Article 1771-1 of the civil code. This Article is used for a parties' contract which is legal and effective at the onset of its formation. It can also be used for a legal contract which is subject to cancellation in case one of the parties fails to perform his/her obligation. However, ASWARDO and both courts have cited the civil code Article 1696 which is not pertinent to the plaintiff's claim. This Article is used for a contract that is subject to invalidation at the onset of its formation. This Article could be used if the plaintiff had argued that he would not have entered into the contract had he known the fact of the wood being thin. Alternatively, the plaintiff must

have raised in his argument that he had entered into the contract by observing the sample of wood.

The reason for courts to use Article 1696 may be due to their consideration of the word cancellation in Article 1771-1 and invalidation in Article 1696 of the civil code as synonymous. However, although the two words are synonyms in some context, they cannot be used interchangeably according to the idea of Palmer (1981).

The other point that needs attention about the contract of parties is that both parties did not mention the kind of wood they have agreed in their contract. That is, Aristotle's formula being explained by Rapoport (1975) about the importance of stating the properties of the thing should be considered in such contract. In other words, indicating the range of denotation, as explained in Rapoport (1975), for specifying a thing in a communication is significant. For this reason, parties in this contract should have included definition of the wood in terms of its size, length or in terms of the purpose for which it is sold or bought. Such absence of connotative definition of the wood in the contract may show that the party who has prepared the contract may have engaged in deception. For example, the argument of parties in the contract shows that the plaintiff has entered into the obligation of the contract by observing the sample of wood. However, the representative of ASWARDO has explained that the wood which could easily be moved by individuals has been moved and kept in other places before the auction. Moreover, the prosecutor has argued that ASWARDO did not know for what purpose the plaintiff wanted to buy the wood. He added that the plaintiff could have the intention of using the wood for charcoal or fire-wood. However, since ASWARDO's auction notice has invited only merchants who have paid tax to the government, ASWARDO has got a chance to read the plaintiff's license for making furniture and the receipt for which he has paid tax. In other words, ASWARDO has got good information about the intention of the plaintiff in the contract, that is, to use the poles of juniper wood for making furniture. As Gillian and Yule (1983, and Kenworthy (1991) have argued a reader or listener can predict the kind of information a text furnishes based on his/her encyclopedic knowledge. In addition, and according to Strauss and Corbin (1998), judges as analysts could discover the intention of ASWARDO in its act of moving the thin poles of wood before the auction.

Therefore, it seems true that ASWARDO has exposed the plaintiff poles of wood as sample during the auction by hiding the other poles of thin wood in another place. For this reason, ASWARDO should have been responsible for its deceptive act in the words of the contract, for it has not mentioned the purpose of the wood that was not exposed to the plaintiff during the auction.

In order to let courts consider such deceptive act of ASWARDO in the contract, the plaintiff should have raised, in his argument, the implied meaning of Article 1696 that are given above under a & b. Therefore, the plaintiff's lawyer could have won his case had he mentioned the following points in his argument:

1. according to Article 1696,
 - a) The sample of wood offered during the auction attributes for an erroneous belief of the plaintiff about the quality of wood.
 - b) ASWARDO's act of showing thick wood as sample but providing thin wood should be considered as giving the plaintiff wrong information about the fact of the wood.
2. According to Article 1697 of the civil code, had the plaintiff known the fact that most of the wood is thin, he would not have entered into the contract.
3. Since the plaintiff's receipt for paying tax shows his job license, ASWARDO has good information about the plaintiff's purpose of buying the wood. Therefore, there has been a mistake of buying thin wood; such a mistake can invalidate the contract according to Article 1699 of the civil code.
4. The silence of ASWARDO for the quality of the wood gathered away from Beterya Forest has caused the plaintiff to expect wood according to the sample. For this reason, the court should invalidate the contract according to Article 1705-1¹² of the civil code.
5. As indicated in Article 1713¹³ of the civil code, ASWARDO must be bound not only by the terms of the contract but also by incidental effects which are related to the obligation concerned by custom, equity and good faith based on the nature of the contract.

¹² A contract may be invalidated where a party in bad faith or by negligence made false statements and a relationship giving rise to a special confidence and commanding particular loyalty existed between the contracting parties.

¹³ The parties shall be bound by the terms of the contract and by such incidental effects as are attached to the obligations concerned by custom, equity and good faith, having regard to the nature of the contract.

Finally, the failure of both High and Supreme Courts to consider the deceptive act of ASWARDO in their judgments may be because Article 1733¹⁴ of the civil code prevents them from interpreting the intention of parties while the terms of the contract are clear. Moreover, Article 1714-2¹⁵ of the civil code gives courts option not to make a contract for parties on the guise of interpretation. As a whole, since courts do not read the unstated intention of parties, they should give judgment based on the arguments parties have offered in writing. Therefore, it is up to the parties to offer reasonable arguments in writing and to cite Articles pertinent to their court case.

4.2 Sale Contract Court Case –2

4.2.1 Argument of Parties

This court case has first been instituted to Awobel Woreda Low Court on Meskerem 8/1999 E.C. The plaintiff has explained in his argument that the defendant has sold him a house for Birr 4000 on Ginbot 12/1989. However, the defendant has refused to perform her obligation of transferring ownership title of the house. For this reason, the plaintiff has claimed performance of such obligation and payment of the penalty mentioned in the contract.

On the other hand, the defendant has offered two types of argument against the plaintiff's claim. Her primary opposition says that the plaintiff has wrongly valued the house for Birr 4000. Such little price may have been given for the house due to the plaintiff's interest of getting judgment by the low court. Since the house can be valued for Birr 30,000 and since such amount of Birr is not in the jurisdiction of low court, she has pleaded Awobel Werda Low court to close the file according to Article 15-1(b)¹⁶ and 244-2(a)¹⁷ of the procedural code.

In case the court has good point to over look her primary opposition, she has mentioned several points against the main issue of the case. First, denying the formation of the contract, she

¹⁴ Where the provisions of a contract are clear, the court may not depart from them and determine by way of interpretation the intention of the parties.

¹⁵ The court may not make a contract for the parties under the guise of interpretation.

¹⁶ /silä käffitännaw [fird bet] silt'an/

(a) /lämayink'asak'k'äs nibrät gimmitu kä?assir ših yä?itiyop'iya birr bälāy yāhonā kis/
literal meaning: 'immovable property which is evaluated to be about more than ten thousand Ethiopian Birr is in the jurisdiction of high court'

¹⁷ /[fird betu] nägärun lāmäsimat silt'an yällawim bāmalāt māk'k'awāmiya siyak'ärb/

Literal meaning: 'when a party offers an opposition by saying that the court does not have authority to see a court case'

explained that the plaintiff has deceived her to sign on a paper. She has signed on a paper because she has been convinced that the paper would help her for free medication. However, the plaintiff let her put her thumb-mark on the paper which was purposely prepared as a contract of sale, without her knowledge. Second, she has argued that the plaintiff has changed the date of the said contract from 1984 to 1989. He has changed the year because he knew that his right to claim the performance of the contract would be barred due to period of limitation. Third, although the law needs a blind party to put his/her thumb mark in a contract before court or notary, this condition of verifying her signature was not fulfilled. As a result, she has been prevented from exercising her legal right. Finally, although the law requires registration for contracts of immovable in court or notary, the plaintiff has failed to claim the fulfillment of such requirement. He has not claimed such registration because he knew that such forged contract would be cancelled had the plaintiff known the fake. Mentioning all the above reasons, the plaintiff has requested the court to invalidate the false contract. For the entire arguments of parties see Appendix 2(b).

4.2.2 Oral Evidences

Based on the argument of parties, Awobel Werda Low Court has required witnesses to verify four points for its judgment. The first point is to investigate whether or not there was true contract of sale between parties. The second point is to examine the defendant's health condition at the time of the contract. The third point is to check whether or not her consent of the contract is free from mistake, duress or deceit. The last point is to get the defendant's reason for not objecting to the plaintiff while he was renewing the house on his expense.

The plaintiff's two witnesses have ascertained the defendant's being healthy, that is, she did not have sight problem during the formation of their contract. Telling to the court their being onlooker of the contract, they have explained that the defendant has not been compelled or deceived. For this reason, they said that the plaintiff has paid her the entire price of the house.

On the other hand, the defendant's two witnesses have communicated the defendant's being blind during Derg Regime although they do not know as to when she is cured. They have also said that in spite of their knowledge of the defendant's house in Lumame, they do not have any knowledge of their contract.

4.2.3 Judgment of Low Court

The low court has explained that the plaintiff's witnesses have ascertained the formation of the contract. It has mentioned different reasons for the appropriateness of the plaintiff's claim of transferring ownership title of the house. First, the defendant's silence while the plaintiff was renewing the house and using it for several years shows the existence of contract between parties. Second, although the plaintiff has ascertained the formation of contract using oral and written evidences, the defendant's witnesses have failed to disprove it. Third, the plaintiff's witnesses have verified the defendant's good eyesight at the time of the contract.

Therefore, the court, citing Articles 1678(a), 1679¹⁸ and 1680(1) ¹⁹of the civil code, has investigated that the contract is free from mistake, duress or deceit. Finally, citing Articles 2273(1)²⁰, 2875(1)²¹, 1675²², 1725²³, 1726²⁴, 1727²⁵, 1728 and 2266²⁶ of the civil code, the low court has given judgment so that ownership title of the house should be transferred to the plaintiff.

4.2.4 Judgment of High Court

Since the defendant's representative who is prosecutor of East Gojam Zone has appealed on the behalf of the defendant, the High Court has examined both oral and written evidences. The court has explained that although the plaintiff's oral evidence fits to the case better than that of the defendant's, weight should be given to written evidences. That is, the law forces the use of

¹⁸ A contract shall depend on the consent of the parties who define the object of their undertakings and agree to be bound thereby.

¹⁹ A contract shall be completed where the parties have expressed their agreement thereto.

²⁰ The seller shall deliver the thing to the buyer in accordance with the provisions of the contract and of this **Code**.

²¹ Without prejudice to the provision of the following Articles, the provisions of the Title of this Code regarding "Contracts relating to the assignment of rights" shall apply to the sale of immovables.

²² A contract is an agreement whereby two or more persons as between themselves create, vary or extinguish obligations of a proprietary nature.

²³ Contract for a long period of time.

The following contracts shall be in writing:

- a) contracts of guarantee; and
- b) insurance contracts; and
- c) any other contract in respect of which such form is required by law.

²⁴ A contract which the parties agree to make in a special form not required by law shall not be deemed to be completed until it is made in the agreed form.

²⁵ (1) any contract required to be in writing shall be supported by a special document signed by all the parties bound by the contracts. (2) It shall be of no effect unless it is attested by two witnesses.

²⁶ A contract of sale is a contract whereby one of the parties, the seller, undertakes to deliver a thing and transfer its ownership to another party, the buyer, in consideration of a price expressed in money which the buyer undertakes to pay him.

written evidences to verify contract's of immovable properties. Consequently, the court has investigated the case by focusing on two main points. Checking whether or not the contract document fulfils the necessary legal requirements is the first point. The second point is to examine whether the defendant's right of putting her thumb-mark before a court or notary is maintained or not.

The high court has explained that although the contract held on Ginbot 12/1989 shows the existence of contract of sale between parties, the last number of the year has been changed from 4 to 9. Such a change can clearly be seen from the document (see Appendix 2a). This shows that the contract was done in 1984 and the plaintiff has purposely done such a change in order not to be barred due to period of limitation. Besides, citing Article 1185²⁷ and 1723²⁸ of the civil code, the court has emphasized the requirement of registration for a sale of immovable property. However, this contract has not been registered. For this reason, the court has assumed that the plaintiff's failure of registering the contract is due to his fear of being responsible for fake contract. Had the plaintiff brought the contract to notary for registration, the defendant would have known the fact. If the defendant had known the existence of such fake contract, she would have claimed its invalidation. Moreover, since the court has ascertained the defendant's being blind starting from the year 1982 up to 1992, Article 1728 -3 of the civil code that requires blind and illiterate people to put their thumb-mark before an authorized body is not exercised. In the absence of such condition the law considers the signature of such people as being done by compelling them. Finally, by attributing help to cure her illness, the plaintiff has deceived the defendant and this shows her consent being given under deceptive. For all these reasons, the court has proved the contract being incomplete. As a result, East Gojam Zone High Court has changed the judgment of low court.

Regarding the amount of money the plaintiff has paid to the defendant, the high court has explained the important of receipt to verify the transfer of money that exceeds birr 500 according to Article 2472 of the civil code. Since the plaintiff has not attached such receipt for paying Birr

²⁷ An entry in the registers of immovable property shall be required for the purpose of transferring by contract or will the ownership of immovable property.

²⁸ (1) A contract creating or assigning rights in ownership or bare ownership on an immovable or un usufruct, servitude or mortgage of an immovable shall be in writing and registered with a court or notary.

(2) Any contract by which an immovable is divided and any compromise relating to an immovable shall be in writing and registered with a court or notary.

4000 in his argument, the court has portrayed the impossibility of forcing the defendant to reimburse such money to the plaintiff. Finally, the judgment of high court shows that the plaintiff's expenditure for renewing the house needs to be set off with the service he has got from the house. A glance at Appendix 2(b) helps to read the court's judgment.

Table-4

The form of the contract document

No	Questions	Yes	No
1.	Are there differing versions of the available document?		x
2.	Does the document fulfill the required format?	x	
3.	Is there consistency of handwriting?		x
4.	Is the document deliberately changed or falsified?	x	
5.	Has the writer engaged in any deception to achieve his/her material interest?	x	

As table four shows, the contract has been deliberately changed. The plaintiff has forged the contract by changing number 4 of 1984 into 9 of 1989 in order to satisfy his material interest.

Table-5

Criteria to the Elements of a Contract

No	Questions	Answer
1.	What is the purpose of the document?	For sale of house
2.	What is the obligation(s) of the plaintiff?	Pay the entire price
3.	What is the obligation(s) of the defendant?	Transfer ownership title
4.	What supporting evidence is offered by the plaintiff?	Contract document & witnesses
5.	What supporting evidence is offered by the defendant?	witnesses

Assessing the contract document in line with questions of table-5, one can learn that the text of the contract constitutes the necessary elements. For example, the obligations of parties are clearly stated. The defendant was supposed to transfer ownership title of the house to the plaintiff. The plaintiff has attached contract of sale as written evidence. In addition, both parties have listed the name of individual witnesses to verify their arguments.

Table-6**The Validity of Oral Evidences**

No	Questions	Witnesses of			
		Plaintiff		Defendant	
		yes	no	yes	no
1.	Did the witness physical and temporal location allow them to observe what was claimed	x			x
2.	Where the condition of observation conducive to accurate observation	x			x
3.	Were their senses adequate for observation	x		x	
4.	Did any of the witnesses have bias which might have led to misinterpretation		x		x

The answers to the questions of table-6 show that the plaintiff's witnesses have had good condition to observe what has been happening during the formation of the contract. However, the defendant's witnesses have got no such chance, that is, they did not have any knowledge about the sale contract. They have verified only the defendant's being blind once.

In comparing the judgments of the two courts, it is significant to see the language of the contract and the provisions cited by parties and courts.

Since the contract of this case has been denied by the defendant, both parties have not raised the existence of different interpretation for words and phrases of the contract. In spite of this, it is possible to see the following phrases that appear to be vague.

1. /läwıl mazzawäryam honä lämmiwät'u wäch'iwöčč/

Literal meaning: 'for transfer of contract as well as for the expenditures'

In the above phrase, /lämmiwät'u wäch'iwöčč/ has the implication of *there being other expenditures*. The phrase, other expenditures, does not show the exact type of expenditures. Therefore, the contracting parties did not clearly state or specify what other expenditures refer to.

2. /wıl yafärräsä lafärräsäbbät bırr hulätt ših likäfl/

Literal meaning: 'he who terminates contract will pay two-thousand Birr'

Implied meaning: the person who cause the cancellation of the contract will pay two-thousand thousand Birr.

Although the parties have agreed to pay two thousand Birr to the government, they have not mentioned to whom the other two thousand Birr will be paid in case one of the parties cancel the contract. It may mean for the witnesses or for the innocent party.

Therefore, the vagueness of the above phrases resulted from lack of specifying words with contextual information. This condition of vagueness coincides with Ullmann's argument that generic character of words is the cause of vagueness (1962).

Based on the criteria set for language data, there are some provisions cited by low and high courts. It is important to list the Articles that are used by the low court first. Then a discussion of their relevance to the case at hand will follow.

Article 1678(a) says,

/yāmmis'āna wīl nāw lāmalāt sost hunetawočč yasfälligallu/

Literal meaning: 'to say that a contract is valid, it needs the fulfillment of three situations'

a) /wīl lāmāwwawal čilota ballaččāw sāwwočč mākakkāl gudilāt yālellāw
simimmīnnāt mānor/

(a) when the contract is done among parties who are capable of contracting and giving their consent free from mistake.'

The English translation of this Article says,

"the parties are capable of contracting and give[sic] their consent sustainable at law"

Implied meaning of the phrase /lāmāwwawal čilota ballaččāw sāwwočč/ 'parties are capable of contracting' is that parties are not insane, judicially interdicted or below the age of eighteen.

Meaning to low court: the defendant had good eyesight.

Article 1728-3 says,

/yāʔiwwiran wāyimm yāmāhayyiman firma yāt'at mīlīkkīt firma yānnāssu firma māhonun wīl
ʔawwaway šum wāyīm ʔand fird s'āhafi wāyīm ʔand dañña bāsiraččāw lay honāw
yarrāgaggāt'uwaččāw kalhonā ʔayasgāddidaččāwm/

The English version says, 'the signature or thumb-mark of a blind or illiterate person shall not bind him unless it is authenticated by a notary, registrar or judge acting in the discharge of his of his duties.'

Literal meaning:

The thumb-mark of a blind or an illiterate person does not oblige him/her unless it is ascertained before a notary or a registrar or a judge being in his/her duty.

Implied meaning:

Thumb-mark of a blind or illiterate person is legalized if one of the following six conditions is fulfilled:

- a) a blind or an illiterate person puts his/her thumb-mark before a notary in his duty.
- b) a blind or an illiterate person puts his/her thumb-mark before a judge in his duty.
- c) a blind or an illiterate person puts his/her thumb-mark before registrar in his duty.
- d) a blind and illiterate person puts his/her thumb-mark before a notary in his duty.
- e) a blind person puts his/her thumb-mark before a notary or a judge or registrar in his duty.
- f) an illiterate person puts his/her thumb-mark before a notary or a judge or registrar in his duty.

Meaning to plaintiff: _____

Meaning to defendant:

Since she is blind and illiterate she should have put her thumb-mark before either a notary, a judge or a registrar.

Meaning to low court: _____

Meaning to high court: 1. The defendant's being blind necessitates an authorized institute to put her thumb-mark.

2. The defendant's being illiterate necessitates an authorized institute to her thumb mark.

Article 2472-1 says,

/bäbiddir yätäsät'täw gänzäb \$500 yä?itiyop'iya bırr bäläy sihon yäbiddirun wıl bäs'ihuf wäyım [bäfırdbet] bätädärrägä yä?ımnät k'al wäyım mähalla kalhonä bäk'är lämasräddat ?ayıçılum/

The English version says," Where the sum lent exceeds five hundred Ethiopian dollars, the contract of loan may only be proved in writing or by a confession made or oath taken in court.

Article 2472-3 says,

/ʔindäzihum kä\$500 yäʔitiyop'iya birr yäbällät'ä gänzäb yämäkfäl nägär bäzih
ʔayinät yiffäs's'ämal/

Literal meaning: ‘the issue of paying money that exceeds Birr 500 is implemented
Accordingly’

Implied meaning: paying money that exceeds Birr 500 must be verified by one of the
three ways to Article 2472-1 of the civil code:

1. receipt
2. confession made in court
3. oath made in court

The word, **or**, in Article 2472-1 is used as *exclusive or*.

Meaning to plaintiff: _____

Meaning to defendant: _____

Meaning to low court: _____

Meaning to high court: paying money that exceeds Birr 500 must be verified in
writing (or receipt).

The different judgments given by the two courts can be attributed to their different interpretations of the cited provisions. For example, the phrase, *are capable*, in Article 1678(a) may mean to the low court ‘*the defendant is not blind*’. However, the implied meaning of this phrase is that the parties in a contract should *not be insane, judicially prohibited or below the age of eighteen*. Therefore, this Article does not have a sense of preventing the blind from concluding a contract. As a whole, most of the provisions cited by the low court are applicable on the condition that the contract has not been denied and that the contract has fulfilled the entire required legal format.

However, the authenticity of the contract in this court case is questioned for some reasons. First, the last number of the year has been changed from 1984 to 1989 (see Appendix 2(a)). Since Article 1845 of the civil code states that the claim for the performance of a contract must be barred if not instituted before 10 years, the plaintiff may have done such a change in order not to be barred by this period of limitation. Second, Article 1728-3 depicts the need for an authorized body for a blind or illiterate person to put his/her thumb-mark. The intention of the legislator in this Article is to let a blind or illiterate person get a chance to hear the terms of their contract, for they do not read what is written in the contract. This situation can prevent such contracting party

from being deceived. However, being both blind and illiterate, the defendant has lost her right of putting her thumb-mark as required. This right of the defendant is not considered in the judgment of the low court due to the low court's failure of considering the different meanings that appear due to the disjunction as explained by Kepson (1977).

Finally, while the low court has used the evidence of witnesses to verify the plaintiff's Birr 4000 payment to the defendant, the high court has cited Article 2472-3 to reject such payment.

Nevertheless, the high court has not considered the different implied meanings of the phrase, *may only be proved in writing or by a confession made or oath taken in court*, of Article 2472-3. Although this phrase has given the plaintiff right to verify his Birr 4000 payment by a confession or oath, the high court has mentioned only the importance of receipt. Therefore, the high court's judgment does not go in line with the idea of Kempson about the need of considering disjunction for different interpretation should have requested the defendant for confession or oath in court.

4.3 Contract of Will Court Case –3

4.3.1 Argument of Parties

In the following court case, two parties have made their court proceedings at three levels. The first court proceeding has taken place in Lay Gaynt Low Court. Since the plaintiff's mother died, he has claimed to Lay Gaynt Werda Low court to be certified as heir of the deceased according to Article 842²⁹ of the civil code and according to the Revised Amhara National Regional State Rural Land Administration and Use Proclamation No. 133/2006 Article 16-5. Consequently, Lay Gaynt Low Court has given the certificate that verifies the plaintiff's being heir of the deceased.

On the other hand, the defendant who is the grandson of the deceased has claimed succession, which is testate, in the same court. Lay Gaynt Low Court has also certified the defendant's being heir of the deceased.

For this reason, the plaintiff has instituted a claim to this court in order that the court should invalidate the will, for its being fake and erroneous.

²⁹ (1) The children of the deceased shall be the first to be called to his succession.

(2) Each of them shall receive an equal portion of the succession.

(3) Where the children or one of the children of the deceased are[sic] dead and are[sic] survived by descendants, they shall be represented in the successions by such descendants.

4.3.2 Judgment of Low and High Court

Explaining the plaintiff's failure of attaching any evidence to invalidate the defendant's will, Lay Gaynt Low Court has rejected his claim and confirmed the legitimacy of the will. Although, the plaintiff has appealed to South Gondar High Court, the court has approved the judgment of the low court with same reason.

4.3.3 Judgment of Amhara Region Supreme Court

Since the plaintiff has appealed to the Supreme Court by objecting the two courts' failure of interviewing onlookers of the will, this court has accepted the appeal and raised three questions to verify the validity of the will. The first question targets at getting information about the legal right of the testator to transfer the land by a will. The second one seeks to check whether or not the condition of reading the will in the presence of the testator and of four witnesses is fulfilled. The last question was raised to examine the fulfillment of the required format of different kinds of wills.

As a result, the Supreme Court has given its judgment by mentioning different points. First, the low court' judgment, assures the plaintiff's being registered as member of the family by the time the farm land was given to the deceased. Besides, the defendant has not argued against this. Second, the defendant's act of instituting new application of will is illegal as it is done before claiming invalidation of the plaintiff's certificate of heir. Third, a will should be made in such a way that it dictates the transfer of the testator's property only. However, the will at hand has depicted the transfer of the land which belonged to both the plaintiff and the testator. Forth, this will has not fulfilled the legal requirement mentioned in Article 46/92 of rural land ownership proclamation number 133/2006. Although this Article requires the beneficiary of the will to secure the deceased in her declining age, the will has not constituted words that verify such a help. Finally, the will has not fulfilled the legal requirement portrayed in Article 880 and 881 of the civil code. That is, there is no word that shows what type of will it is. In addition, it does not indicate whether the will has been read in the presence of the testator and of the witnesses. For all the aforementioned reasons, the Supreme Court has discarded the judgment of the two courts and confirmed the plaintiff's being heir of the deceased. For the entire judgment, see Appendix 3(b).

Table-7**The form of the Will Document**

No	Questions	Yes	No
1.	Are there different versions of the available document?		x
2.	Does the document fulfill the required format?		x
3.	Is there consistency of handwriting?	x	
4.	Is the document deliberately changed or falsified?		x
5.	Has the writer engaged in any deception to achieve his/her material interest?	?	?

The answers to questions of table-7 show the absence of the required format in the will of this court case. Although Article 880 of the civil code depicts the existence of three kinds of wills, public will, holographic will and oral will, the will in this court case does not show which kind of will it is. In addition, it does not indicate whether or not it is read in the presence of the testator.

Table-8**Criteria Pertaining to the Issue of a Will**

No	Criteria	answers
1.	What kind of will is it?	It looks like public will
2.	What is the purpose for the testator in her will?	To transfer her land
3.	What is the reason of the testator in claiming the performance of the will as expressed?	To let the beneficiary undertake the expense of medication, funeral and Memorial day
4.	What is the education level of the testator?	illiterate
5.	What is the health condition of the testator?	good
6.	What are the evidences of the will?	Five onlookers

As shown in table-8, the purpose of the will is to transfer farmland to the defendant on condition that the beneficiary will be responsible to cover medication, funeral and Memorial Day services of the testator. Although, the names of five witnesses are mentioned in the will, they were not called by courts to verify the authenticity of the will. The testator's being illiterate is ascertained by her thumb-mark on the will. This will also shows the testator's being healthy at the time she dictated words of her will because she died 15 months after the formation of the will.

There are different words and phrases of the will that are subject to different interpretations.

1. /märetenim/ ‘and as to my land’

Implied meaning: the land which belonged to the testator who used to generate her source of income as head of the family

Meaning to defendant: the land which was held by the deceased

Meaning to plaintiff: the land which belongs to both the deceased and the plaintiff

Meaning to both low and high courts: the private land of the deceased

Meaning to Supreme Court: the land which was registered in the name of the deceased on behalf of the entire family

2. /läliḡe/ ‘to my son’

Literal meaning: to my biological son

Implied meaning: to my grandson.

Although the beneficiary of the will is her grandson, the testator may have said my son due to her affectionate towards her grandson.

Meaning to plaintiff, defendant and to all courts: to the testator’s grandson

3. /bäšimagillewočč mäkkäl k'alēn ʔasarfeyallähu/

‘I have put down my words in the midst of old people’

(a) /šimagillewočč/

Literal meaning: old people

Implied meaning: elders, witnesses, observers

Meaning to plaintiff, defendant and to all courts: observers and witnesses

(b) /mäkkäl/

Literal meaning: middle

Implied meaning: among, midst, presence of

Meaning to parties and courts: presence of

(c) /k'alēn/

Literal meaning: my word

Implied meaning: my message

Meaning to plaintiff, defendant and to all courts: intention of the testator

(d) /ʔasarfeyallähu/

Literal meaning: I laid down

Implied meaning: wrote, dictated

Meaning to both low and high courts: wrote

Meaning to Supreme Court: dictated

Amhara Regional State Supreme Court has cited Article 880 and 881-2 of the civil code in its judgments. To see what different meanings courts have given to Articles 881-2, the sentence of the Article is written below.

Article 881-2 says,

/bäglis' yämmiddäräg nuzzaze form nuzzazew bätänazažunna bäʔaratt misikkīročč fit kaltänäbbäbänna yihim sirʔat (formaliti[sic] mäffäs'ämüninna yätäfäs's'amäbbätinim k'an yämmiyamäläkkīt kalhonä bāk'är färaš näw/

The English version says, “public will shall be of no effect unless it is read in the presence of the testator and of four witnesses, and mention of the fulfillment of this formality and of its date is made therein.”

In the above article, the phrase /yihim sirʔat (formaliti[sic] mäffäs'ämün ... yämmiyamäläkkīt kalhonä bāk'är färaš näw/ is not interpreted by low and high courts.

Literal meaning: unless the will being read is mentioned in the will, it will be invalidated.

Implied meaning: a sentence such as ‘*I, the testator and we, the witnesses have seen and heard when the will has been read*’ must be found written on the page of the will.

The reason for the need of including such a sentence is due to the pragmatic meaning of the deictic word /yihim/ ‘this’. Therefore, the meaning of the co-text /yihim sirʔat/ ‘this formality’ should be referred from the phrase of the Article, that is, it is read in the presence of the testator and of four witnesses. However, the reason of both low and high courts for not considering the intention of the legislator of this Article maybe due to their assumption of the document as

holographic will. Therefore, the idea of Gillian and Yule (1983) for the importance of referring the preceding text for the whole interpretation of a sentence has not been maintained.

The judgments of low and high courts are different from the judgment of the Supreme Court for different reasons. First, courts have given different semantic and pragmatic meanings to some words in the will and the corresponding legal provisions. For example, the word /märeten/ 'my land' has been given the meaning '*only the personal land of the deceased*' by the low and high courts. However, the Supreme Court has given this phrase the meaning '*the land which was held by the plaintiff as joint-owner-ship*'. Besides, since the two low courts have considered the document as holographic will, they have interpreted the word /ʔasarfeyallehu/ 'laid down' as 'wrote' but the Supreme Court has shown its doubt whether this word means *wrote* or *dictated*. For this reason, the two low courts have not called the witnesses to verify the authenticity of the will. But the Supreme Court has explained how difficult it is to decide whether the will is holographic or public as it does not constitute the legal formality of them according to Article 880 and 881-2 of the civil code. The possibility of words to carry implicit meaning different from their literal meaning as stated by Palmer (1981) and the requirements of more inferences to work out the intended meaning according to Akamajan (2001) are clearly manifested in these courts' judgments.

4.4 Contract of Will Court Case –4

4.4.1 Argument of Parties

This court case is added in the study because there are things that make it different from court case three. First, there are two versions of the will of the testator: one is 'authentic'³⁰, the other is forged³¹. Second, the name of one witness has been added in both versions of the will in different handwriting and pen. Third, some names of the witnesses' name are missing under their signature in one of the will version. Moreover, some Articles of the civil code are interpreted in different ways by both parties and different courts.

In this court case, parties have argued for testate and intestate succession of a deceased who died on Megabit 16/1994 E.C. The representative of twelve people has claimed succession by

³⁰ The document whose text is free from deletion, addition and correction of some words, phrases and so on.

³¹ The document which was corrected by adding or deleting some words, phrases and so forth in the attempt of making its formalities legally effective

attaching a will to Gondar Ketema Wereda Low Court. This court has given the certificate that ascertains the defendants' being heir of the deceased on June 17/94 EC.

On the other hand, another party who is the nephew of the deceased has claimed succession because of his blood relation. The same court has certified his being heir to the deceased on Tir 19/1996.

Consequently, the plaintiff's lawyer has instituted the low court to invalidate the certificate of testate succession. The plaintiff has argued for the invalidation of the will based on the following points.

1. Since the deceased was illiterate, she was not expected to dictate the legal words and phrases written in the will.
2. Since the writer of the will is the main beneficiary, the testator's private right for the preparation of the will is not maintained according to Article 857 of the civil code.
3. Although the will was supposed to be deposited with a third party or a notary or in a court registrar according to Article 891-1³² of the civil code, it was deposited in the hands of the beneficiary of the will.
4. The will does not contain a word that can ascertain its being read in the presence of the testator and of four witnesses according to Article 881-2 of the civil code.
5. Since the witness of the will listed under number four is the beneficiary of the will, he should not be considered as witness.
6. Since the witness listed under number four is legally prevented from verifying the authenticity of the will, the defendant has purposely included the fifth witness with a different script (or handwriting) and pen. In addition, this witness has not put his signature in the first and second page of the will. The different calligraphy and the absence of the signature of the fifth witness show the witness's absence during the formation of the will. The defendant's reason for the inclusion of the fifth witness after the death of the testator is due to the requirement of four witnesses for public will according to Article 881-1 of the civil code. However, Article 881-3 has depicted the significance of the immediacy of putting witnesses' signature by the time the will is prepared.

³² A public or holograph will may be deposited with a third party, in particular a notary or in a court register.

7. The testator's right of disinheriting her relative is legally prevented without the fulfillment of Article 838³³, 839³⁴ and 840³⁵ of the civil code.

On the other hand, the defendants' lawyer has offered two types of oppositions: primary opposition in accordance with procedural law and main opposition in line with the main issue of the dispute. The main points raised in the defendants' argument are summarized below.

4.4.1.1. Primary Opposition

1. Since the plaintiff has not offered his application for reduction or invalidation of a donation before two years, his right has been barred According to article 2441(1)³⁶ of the civil code.
2. Since the applicant has not claimed invalidation of the will within three months, his right of offering such a claim is barred by Article 874 (3) of the civil code.
3. The plaintiff does not have a right to claim succession once the ownership right of the property has already been transferred to the beneficiaries of the will.

4.4.1.2 Opposition to the Main Issue

1. Since the plaintiff is not a descendant or an ascendant of the deceased, he does not have a right to claim the reduction or invalidation of the provisions of the will according to Article 874 (1) and(2) of the civil code.

³³ Any person who has been sentenced for:

- (a) having intentionally caused the death of the deceased or the death of a descendant, ascendant or spouse of the deceased; or
- (b) having attempted to kill any one of such persons; or
- (c) having made a false accusation or testimony which might have entailed the condemnation of any one of such persons to capital punishment or rigorous imprisonment for more than ten years, shall lose his capacity to succeed the deceased as an unworthy.

³⁴ The loss of capacity provided in Art. 838 shall not take place where the crime or attempted crime has been committed by the person called to the succession after the death of the deceased.

³⁵ Whosoever:

- (a) by taking advantage of the physical state of the deceased, has, within three months prior to the death of the latter, prevented him from making, modifying or revoking his will; or
- (b) has intentionally destroyed, caused to disappear or altered the last will of the deceased, without the consent of the latter, or has availed himself of a false will knowing it to be such, shall lose his capacity to succeed the deceased as unworthy.

³⁶ (1) An application for the reduction or invalidation of a donation shall, under pain of loss of right, be made within two years from the donation.

2. All the society of Gondar town knows that the deceased had good knowledge of the law and that she was naturally wise and gifted to comment legal actions. For this reason, she dictated her words of the will and put her thumb-mark according to Article 881.
3. Article 881 (1) of the civil code does not prevent the beneficiary from writing the will. This article has a sense of allowing any person to write a will for a testator.
4. Article 891 (1) does not attribute the deposition of a will in the hands of the beneficiary for its invalidation.
5. The different script and pen of the name of the fifth witness cannot be verified by the photocopy of the will. In order to ascertain this, the court can order the defendant to bring the original will which shows the sameness of the script.
6. Article 909 (a)³⁷ and (c)³⁸ has given the testator a right to inherit or disinherit her successor.
7. Since the deceased has inherited the plaintiff's daughter, the plaintiff should claim his right from his daughter.
8. The plaintiff did not visit the deceased when she was sick.
9. The plaintiff's silence at the time the will was announced by a newspaper shows his acceptance of the provisions of the will.
10. The plaintiff's son who has lived in Gondar did not attend the funeral of the deceased. Therefore, it is shameful for the plaintiff to claim succession, for Articles 838 up to 840 of the civil code prevent him from doing so.

4.4.2 First Judgment of Low Court

Based on the argument of parties, Gondar Ketema Low Court has given its judgment on Miyazya 25/1997 E.C. Citing Article 874 (2), this court has rejected the plaintiff's application by explaining that the right for invalidation of a will is given only for the descendants or ascendants rather than to collateral relatives of the testator. In addition, the right of the plaintiff to claim invalidation of the will is barred by period of limitation. For these reasons, the low court has given a judgment that confirms the legality of the will.

³⁷ The testator may in his will:

(a) appoint one or more legatees by universal title; and (b) order legacies by singular title; and

³⁸ (c) disinherit one or more of his heirs or constitute an endowment or trust; and...

4.4.3 First Judgment of High Court

Accepting the plaintiff's appeal that contests the judgment of low court, South Gondar Zone High Court has examined the parties' argument based on what period of time covers the plaintiff's right of claiming invalidation of the will. Period of limitation that prevents the plaintiff from claiming invalidation of the will would work had the will been read within forty days after the death of the testator, in the presence of the plaintiff. The defendant's failure of offering an argument about the plaintiff's presence by the time the will was read shows the plaintiff's ignorance about the will. Consequently, Article 974 (2)³⁹ of the civil code gives a legal heir a right of claiming invalidation of a will within five years if s/he has not attended the reading of the will. Mentioning the above reasons, the high court has rejected the judgment of the low court and remanded the case in order that the law court must examine only the legality of the will.

4.4.4 Second Judgment of Low Court

By examining the main issue of the argument, the low court has given the following judgment for the remand case on Miyazya 24/1998 E.C.

First, since the observers of the will have verified their presence at the time the will was read, the will has fulfilled the legal requirement indicated under Article 881 of the civil code. For this reason, the legality of the will has been ascertained by the low court on June 17/1994 E.C. Second, Article 891 (1) of the civil code does not attribute failure of depositing a will in the office of notary for its invalidation. Third, since the will has been done in three copies, one copy has been deposited in the hands of the testator, the second copy in the hands of the clergy (priest) and the third one in the hands of the beneficiary. As a result, the signature of the witness can be put in different places. This different position of the signature does not attribute to the invalidation of the will. Since it is difficult to invalidate the will by focusing only on it, the plaintiff should have offered other evidences to invalidate the will. Forth, the different script for the name of the fifth witness should not cause for the invalidation of the will because this could have been occurred if the witness himself wrote his name with his pen. Fifth, unless the

³⁹ Persons not present.

The validity of a will and the order of partition proposed by the liquidator may in no case be contested after five years from the day of the opening of the will or, if there is no will, five years from the death of the deceased.

plaintiff's lawyer wishes to promulgate different laws of his own, his claim as to who writes the will, where the will should be deposited and what ability the testator lacks in dictating words of her will are not stated in the civil code. Sixth, the testator has a right not only to transfer her property to the beneficiary of the will but also to disinherit people other than her descendants. Finally, the right to invalidate or reduce provisions of the will is given to the children or grandchildren of the deceased rather than to her nephew according to Article 974 (2) of the civil code. For all these reasons, the low court has rejected the plaintiff's claim and approved the legality of the will again.

4.4.5 Second Judgment of High Court

Mentioning the prejudice of the low court's judgment, the plaintiff has appealed to the high court by arguing that the low court has given judgment out of the principle of law of evidence. For this reason, North Gondar Zone High Court has investigated the case based on the following two questions.

1. Does the will fulfill the legal requirements stated in Articles 881, 882⁴⁰, 857 of the civil code?
2. Does the plaintiff have a right to claim the invalidation of the will?

According to Article 880⁴¹ of the civil code, there are lists of compulsory legal formalities for each kind of will. These formalities must be fulfilled in order to prevent a will from invalidation. According to Article 881, public will is written under the dictation of the testator or the testator may write his will by himself. Sub-Article 2 of this Article portrays the importance of reading the will in front of the testator and of four witnesses. This sub-Article also depicts the importance of indicating the fulfillment of reading the will in the will. It can be indicated in the following manner." ... this will is read in the presence of the testator and of four witnesses." If the will does not contain such an indication, it shall be invalidated.

⁴⁰ Number of witnesses.

A public will shall be valid where it is made in the presence of two witnesses one of whom is a registrar or a notary acting in the discharge of his duties.

⁴¹ There are three kinds of wills:

- (a) public wills; and
- (b) (b) holograph wills; and
- (c) (c) oral wills.

The main reason for the fulfillment of such legal formality is that a will is to be realized after the death of the testator. Since the deceased cannot get a chance to contest the provisions of the will, such condition is designed to prevent one from claiming succession by offering falsified or forged wills. Coming to the case at hand, there is no word that verifies the condition of reading this will before the testator and four witnesses. Therefore, the low court's assumption for the fulfillment of this condition in its judgment is away from the procedures indicted in the law.

Although the plaintiff has claimed invalidation of the will by explaining the non-fulfillment of forcible rules of Article 881(1), 882 and 857, the low court has wrongly cited Article 874 (2) and rejected his application. However, raising a question of invalidating a will does not necessitate the plaintiff's being descendant or ascendant of the deceased, for his being legal heir allows him to do so. As a result, the high court has disregarded the judgment of the low court by explaining the illegality of the will. The entire judgment is available in Appendix 4c.

4.4.6 Judgment of the Supreme Court

Accepting the defendant's appeal, the Supreme Court has examined the case based on Article 881 (2). Even though the will which was written on Tir 27/1994 has constituted date and list of five witnesses, it does not have any phrase that shows its being read. The need for reading the will before the testator is to check whether or not the provisions of the will really belong to the testator. Therefore, public will needs the inclusion of a phrase that verifies the condition of reading the will. Finally, by mentioning the absence of such condition and the inconsistency places and time of the witness's signatures, the Supreme Court has approved the judgment of the high court. See Appendix 5(c) for more information.

Table-9

The form of the Will Document

No	Questions	Yes	No
1.	Are there differing versions of the available document?	x	
2.	Does the document fulfill the required format?		x
3.	Is there consistency of handwriting?		x
4.	Is the document deliberately changed or falsified?	x	
5.	Has the writer engaged in any deception	x	

Table-9 shows the existence of two different version of the will. While one of the will contains the signatures of five witnesses, the other will does not have the signature of the fifth witness on the first and second pages (see Appendix 4a and b). In addition, while one of the will shows the name of some witnesses written by their signature, the other will only shows signatures without some names being attached. The presence of different script in writing zero of Article 880 and the name of the fifth witness on the first page and the last pages respectively show that the writer has falsified the will.

Table-10

Criteria Pertaining to the Issue of a Will

No	Criteria	answers
1.	What kind of will is it?	public will
2.	What is the purpose of the testator in her will?	To transfer property
3.	What is the reason of the testator in claiming the performance of the will as expressed?	to compensate the free labor that most of the beneficiaries used to give to the deceased
4.	What is the education level of the testator?	illiterate
5.	What is the health condition of the testator?	good
6.	What are the evidences of the will?	Five onlookers

The information in table-10 shows the testator has intended to inherit all her property to 11 people. However, although her health condition was good by the time the will was written, her being illiterate has given the writer a chance to take the main property by falsifying the provisions of the will.

Table-11**The Validity of Oral Evidences**

No	Questions	Yes	No
1.	Did the witness physical and temporal location allow them to observe what was claimed	x	x
2.	Were the condition of observation conducive to accurate observation?	x	x
3.	Were their senses adequate for observation	x	
4.	Did any of the witnesses have bias which might have led to misinterpretation	x	
5.	If the answer to question four is yes, what effect might the witness want to create	He causes the fake will to be acceptable by the low court	

From table-11, one can learn that four of the witnesses had good condition to observe the formation of the will. Since Article 881-2 requires the appearance of four witnesses other than the beneficiary in public will and since the forth witness is the beneficiary of the will, the law does not give him a right to verify the authenticity of the will. For this reason, the writer of the will, who is the main beneficiary, has added the fifth witness who did not appear as an observer during the formation of the will. He has included the fifth witness in order to make the number of witnesses four since they remain three when the beneficiary is deducted; the legal formality of public will requires the inclusion of four witnesses.

The name of the fifth witness, who has not been called by the low court to verify the authenticity of the will, has been entered into the will with a different script and pen. The inclusion of this witness attributes the acceptance of the will in the judgment of low court, although the low court has not interviewed him by the time ascertained the validity of the will.

According to table-11, the following phrase of the will is interpreted in different ways by parties and courts:

bäfithabher higg k'ut'ir 891⁴² mäsärät

‘based on Article 891 of the civil code’

Implied meaning: public will may be deposited with a third party, in particular, a notary
or in a court register

meaning to plaintiff: public will cannot be deposited in the hands of the beneficiary
because the phrase ‘*third party*’ excludes the testator and the
beneficiary of the will.

Meaning to defendant: the phrase ‘*may be*’ permits the deposit of public will in the
hands of a beneficiary.

Meaning to low court: the phrase ‘*may be*’ does not force the deposit of public will with the third
party or registrar. It rather gives right to the testator to deposit it anywhere else.

Meaning to high court: it does not consider this Article in its judgment.

There are different Articles that have been used in the argument of parties and in the judgments
of courts. To begin with, the different meanings assigned by courts and parties to Articles cited
by the plaintiff are shown below.

Article 881-2 says,

/bäglis' yämmiddäräg nuzzaze form nuzzazew bätänazažunna bäʔaratt misikkīročč fit
kaltänäbbäbänna yihim sirʔat (formmaliti[sic] mäffäs'ämüninna
yätäfäs's'amäbbätñim k'än yämmyamäläkkīt kalhonä bāk'är färaš näw/

The English version says,” public will shall be of no effect unless it is read in the presence of the
testator and of four witnesses, and mention of the fulfillment of this formality and of its date is
made therein.

In the above article, the phrase yihim sirʔat (formmaliti[sic] mäffäs'ämün ... yämmyamäläkkīt
kalhonä bāk'är färaš näw// is interpreted in different ways.

⁴² /nuzzaze silämask'ämmät'/ ‘deposit of wills’

(1) /gils' wäyīm bätänazažu s'ihuf yätädärrägä nuzzaze bäʔand säw zänd bätäläyyīm lämawwawal silt'an
bätäsät't'äw säw zänd wäyīm bäʔand yifird mäzigäb bet zänd lik'k'ämmät' yičilal/

Lit. ‘ a public or holograph will may be deposited with a third party, in particular a notary or in a
court registry.’

Literal meaning: unless the action of reading the will is mentioned in the will, it will be invalidated

Implied meaning: a sentence such as '*I, the testator and we, the witnesses have seen and heard when the will has been read*' must be found written on the page of the will.

The reason for the need of including such a sentence is due to the pragmatic meaning of the deictic word /jihim/ 'this'. Therefore, the meaning of the co-text /jihim sirʔat/ 'this formality' should be referred from the phrase of the Article, that is, *it is read in the presence of the testator and of four witnesses*.

While the plaintiff, high court and Supreme Court consider the implied meaning of this phrase, the defendant and the low court have interpreted in different way. For the defendant and the low court, the implication of the phrase, *mention of this formality*, in Article 881-2 of the civil code can be addressed by interviewing four witnesses in the low court. Therefore, the low court has proved whether the will was read or not from the interview.

Article 857(1) says,

/ nuzzazew yāmuwaču t'ibk yāhonā rasu yāmifäs's'imāw sira nāw/

Literal meaning: 'preparing a will is an act which is strictly personal to the deceased.'

Implied meaning: preparing a will does not allow an involvement of a second or third party.

Meaning to the plaintiff: the beneficiary being the writer of the will may have an influence against the testator's personal right. For example, the legal phrases found in the will belong to the writer because an illiterate testator does not dictate them.

Meaning to the defendant: the inclusion of legal terms does not show the testator's right being eroded because some illiterate people have experiences of court proceedings.

Meaning to low court: phrases of a will unexpected to be dictated by a testator cannot attribute the influence to the personal nature of a will.

Article 874 (1) says,

/yānuzzazew[sic] k'al muwaču lābal wāyim lāmist t'ik'im yadārrägāw yāhonā ʔindāhonā
yānuzzazew k'al ʔindik'k'ānnās wāyim ʔindiššar yāmadrāgun t'iyak'e yāmuwaču tāwällağočč
kalhonu bāk'ār lādaññočč leločč liyak'ārbut ʔayičilum/

The English version of this Article says, “Where a testamentary provision is made in favor of the spouse of the testator, its reduction or invalidation may be required from the court only by the descendants of the testator.”

Literal meaning: if words of the will are done in favor of the spouse of a testator, the right to claim reduction or invalidation is offered to the judges only by the descendants rather than others.

Implied meaning: if a will favors the testator’s spouse more than his descendants, only the descendant can claim reduction or invalidation of the will.

The phrase ‘*in favor of*’ shows that the provision of the will gives more property to the spouse than it gives to the descendants.

Meaning to the plaintiff and high court: both the plaintiff and high court take the implied meaning for different reasons. First, the phrase, *in favor of*, exposes that the will gives more advantage to one person than to another. Second, since Article 939 (2) prevents the deceased from disinherit his descendants, they are considered as legal heir of the deceased. For this reason, they are given the right of reducing or invalidating the will.

Meaning to both defendant and low court: a claim for invalidation or reduction of the provision of a will that disinherits descendants must only be given to the descendants.

Article 874 (2) says,

/bālelaw gizzē gin kāleločč mannaččāwim wārašočč bāk'ār wādā lay yāmmik'ot'tāru
yāmuwaču wālağočč wāyim wādā tačč yāmmik'ot'tāru tāwällağočč wāyim bal wāyim mist
lādaññočč liyak'ārbut yičilallu/

The English version of this Article says,” In other cases, the request may be made by the descendants, ascendants or spouse of the testator and by no other heirs.”

Literal meaning: In other cases, other than any other legal heirs, the descendants or ascendant or spouse of the deceased can offer to the judges.

Implied meaning: if the provision of a will is made to transfer more property to any person than to the spouse of the testator or to his descendants or to his ascendants, the claim of reduction or invalidation of the will can be offered only by one of the following people:

1. the spouse and the descendants.
2. if the spouse died, only their children
3. if the testator did not have a descendant, the spouse and ascendants of the testator
4. if the testator did not have spouse and a descendant, ascendants only.

Meaning to the plaintiff and high court: taking the implied meaning, both the plaintiff and high court have interpreted the applicability of this sub-Article only for the beneficiaries of a will.

Meaning to both the defendant and low court: the request to reduce or invalidate any will that disinherits descendants, ascendants or spouse of the testator can be claimed only by the descendants, ascendants or spouse of the deceased.

Article 874 (3)

/bānuzzazew k'al tāt'āk'k'ami yāmmihonāw sāw nuzzazew ʔindiffās's'āmillāt t'īyyak'ewin kak'ārrābābbāt k'an ʔansito [bā3] wār wist' yānuzzazew k'al ʔindik'k'ānnās wāyim ʔindiššar yāmmilāwīn t'īyyak'e kalak'ārrābā tāk'ābbaynāt ʔayagāññim/

The English version says, “The request for reduction or invalidation shall be barred where it is not made within three months following an application by the beneficiary of the provision for the execution of the will.”

Literal meaning: the right of the beneficiary of the will to claim for the reduction or invalidation of the testamentary provision must be barred unless he/she requests it within three months. Counting of this period begins from the time an application for execution of the will is offered to court.

Implied meaning: the right of any beneficiary of the will to claim the reduction or invalidation the provisions of the will must be done within three months that begins to be counted from the time the application for the execution of the will is made.

Meaning to both the plaintiff and high court: the phrase /tät'äk'k'ami yämmihonāw säw/ 'the person who is the beneficiary' and /t'iyak'e kalak'ärräbä/ 'if he does not offer question' refer only to the beneficiary of the will. So, this sub-Article is applicable only to the beneficiary of the will rather than other legal heirs. However, Article 974 (2) gives five years time to a person who does not attend the opening of a will in order to claim for the invalidation of the will.

Meaning to low court and defendant: the right of any person to claim reduction or invalidation of a will must be barred unless he/she claims it within three months counting from the time of application for the execution of the will.

In comparing the judgment of South Gondar High Court and Amhara Region Supreme Court with Gondar Ketema Low Court, one can learn that the courts have given different interpretation for the cited Articles. First, the low court seems reasonable in interpreting Article 891 for the possibility of depositing public will in the hands of a beneficiary because of the phrase, *may be*. Second, there is no way of verifying whether the legal phrases mentioned in the will were dictated by the testator or not. Therefore, since the low court did not have any chance of verifying the influence of the writer by interviewing the deceased, it seems difficult to attribute phrases of a will, unexpected to be dictated by a testator, influence the personal nature of a will. This condition necessitates checking the encyclopedic knowledge of the deceased as explained by Saeed (2003), Gillian and George (1983) and Kenworthy (1991). For this reason, high and Supreme Courts have not said anything about these articles.

On the other hand, the high court has interpreted Articles 857 (1) and (3) correctly. That is, these sub-Articles are applicable only for the beneficiaries of a will on the condition that the will fulfills its legal formalities, but the plaintiff has only explained the illegality of the will. Finally, Since Article 881-2 depicts invalidation of the will that has not contain a sentence such as '*I, the testator and we, the witnesses have seen and heard when the will has been read*', both high and supreme courts' interpretation for Article 881-2 has a sound reason due to the pragmatic meaning of the deictic word /yihm/ 'this'. Therefore, the idea of Gillian and George (1983) for the importance of referring the preceding text for the whole interpretation of a sentence has been considered in the judgment of both high and supreme courts.

4.5 Contract of Employment Court Case –5

4.5.1 Argument of Parties

In this court case, Amhara National Regional State Economic Development Office (ANRSEDO) has instituted a claim for Birr 50,000 to West Gojam Zone High Court. ANRSEDO has mentioned the failure of the main debtor of serving the region for at least two years after his training according to their contract. For this reason, the main debtor along with the three warrantors must pay Birr 50,000 according to their obligation of the contract.

On the other hand, blaming the plaintiff's argument, the first defendant (or main debtor) has raised several points in his argument. First, he had returned to the region and served about a year. Second, he has been giving service to the region as a teacher in Behar Dar University. Such a service should be considered to the benefit of the region and the country at large. Third, Civil Servant Proclamation number 262/94, Article 74-1 has given all civil servants a right to leave their work on their own without any precondition. As a result, any law or decree that contravenes the rights given in Article 89-2 and 74-1 of this proclamation is not applicable. Finally, the obligation of the three warrantors would work until the trainee (or the main debtor) came back and reported to the contracting office. Since the trainee had served the office about a year after the training, the warrantors' obligation was completed.

Similarly, all the three warrantors have responded to the plaintiff's claim in the following ways. First, the plaintiff's claim contradicts to each other. That is, on the one hand, it has claimed that the main debtor has not returned to the contracting office. On the other hand, the written evidence attached to its claim depicts that the main debtor of the contract had served the office for a year and twenty days after his training. In addition, the warrantors should have been responsible to the obligation of contract of guarantee had the main debtor not started working to the office. Finally, the plaintiff's claim that requires the warrantors to pay the money mentioned in the charge does not consider the intention of Article 1933 (1)⁴³ and (2)⁴⁴. Such a claim should

⁴³ Joint guarantee.

(1) Where the person undertaking the guarantee described himself as joint guarantor, co-debtor, or used equivalent terms, the creditor may sue him without previously demanding payment from the debtor or realizing his securities.

⁴⁴ (2) The relevant provisions of this Chapter shall apply to joint guarantee.

be raised if the main debtor was sentenced to pay by a court. Therefore, the plaintiff's accusation of the warrantors along with the main debtor contravenes the idea of Article 1934⁴⁵.

4.5.2 Judgment of High Court

In order to settle the dispute of parties, West Gojam Zone High Court has examined two points. The first point focuses on the legality of the contract. The second one targets at examining whether the defendants' obligations are valid or not before the law.

Article (1725-1)⁴⁶ forces contracting parties to conclude a contract of guarantee in writing. Besides, article 1727 (2) requires the inclusion of two witnesses in a written contract. However, the contract at hand has not constituted such witnesses. Although the defendants has failed to argue the requirements of two witnesses for valid written contract, Article 1718⁴⁷ gives judges the right of giving judgment based on the provisions of the law. Consequently, citing Article 1727 (2) and 1720 (1)⁴⁸, the court has stated that the contract at hand is considered as a mere draft, for it was not attested by two witnesses. In other words, the plaintiff's claim for the payment of Birr 50,000 by the defendant is impractical in the absence of a contract for such obligation. As a whole, three of the judges have agreed for the impractical nature of the obligation of the said contract before law.

4.5.3 Judgment of Supreme Court

Since the prosecutor of ANRSEDO has appealed by explaining the non-requirement of two witnesses in the contract of public administration, the Supreme Court has examined their argument based on three questions:

⁴⁵ Simple guarantee.

- (1) Apart from the case mentioned in Art. 1933, a guarantor shall not pay the creditor unless the principal debtor fails to discharge his obligation.
- (2) The guarantor may demand that the creditor, before requiring him to pay, should discuss the principal debtor 's assets and, in particular, realize the real securities available.

⁴⁶ The following contracts shall be in writing:

- (a) Contracts of guarantee; and ...

⁴⁷ The court shall not order a contract to be performed where:

- (a) the terms of the contract denote that the parties or one of them have an unlawful or immoral purpose in view; or
- (b) the party who requires the performance of a contract produces a document denoting such purpose.

⁴⁸ Where a special form is prescribed by law and not observed there shall be no contract but a mere draft of a contract.

1. Does the absence of two witnesses invalidate the contract at hand?
2. Are the three warrantors responsible for the money in the charge?
3. How much should the main debtor pay in case he is liable for the debt?

Coming to the first question, two witnesses are significant in written contract only if one of the contracting parties denies the formation of the contract. Such witnesses could be called to verify the formation of the contract which is denied by one of the parties. However, for the case at hand, no party has denied the contract. If the contract has not been denied, there is no need to verify its authenticity by witnesses. The other point about the contract is that it has been done before a notary and its being registered in the notary is ascertained. Therefore, this contract of parties is found to be legal. As a result, the main debtor's failure to serve the contracting office after his training makes him liable for paying the sum mentioned in their contract. However, the three warrantors would have been responsible had the main debtor not started working in the office after his training. Since the main debtor had returned and worked for about a year for the contracting office, the warrantors' obligation was accomplished. (see appendix 5c)

Table-12

The form of the contract document

No	Questions	Yes	No
1.	Are there differing versions of the available document?		x
2.	Does the document fulfill the required format?		x
3.	Is there consistency of handwriting?	x	
4.	Is the document deliberately changed or falsified?		x
5.	Has the writer engaged in any deception to achieve his/her material interest?		x

One can learn from table-12 that the contract document of this court case has not fulfilled the legal format. Although the law requires the inclusion of two witnesses in a written contract, this contract lacks this condition.

Table-13**Criteria to the Elements of a Contract**

No	Questions	Answers
1.	What is the purpose of the document?	Training an employee
2.	What is the obligation(s) of the plaintiff?	Pay the expenditure of training
3.	What is the obligation(s) of the defendants?	1.Serve for two years 2.Warrantors will pay Birr 50,000
4.	What Supporting evidence are offered by the plaintiff?	Contract document
5.	What Supporting evidence are offered by the defendant?	Contract document

Table-13 shows that there are several defendants. The first defendant is the main debtor who has concluded a contract for his long term university training. His obligation in the contract is to serve the contracting office at least double times of his training time. In addition, he is obliged to serve at any place the contracting office may assign him. On the other hand, the obligation of ANRSEDO in the contract is to pay transport fee, per diem, and medication, salary of the trainee, to hire the trainee after training. The three guarantees have the obligation of paying Birr 50,000 according to Article 1933 as joint guarantees.

The contract of this case constitutes some words which can be interpreted in different ways.

1. /biyans bāt'if/ 'at least by double'

Implied meaning: minimum two years; not less than two years; two+ years

Meaning to defendant: only two years

Meaning to plaintiff: two or more than two years

Meaning to high court: _____

Meaning to Supreme Court: two or more than two years

2. giddeta gäbtä-w-al

obligation enter-they-Prf

'they entered into obligation.'

Implied meaning: he/she entered into obligation.

Meaning to each defendant: I entered into obligation.

Meaning to plaintiff: they/he/she entered into obligation.

Meaning to high court: they/he/she entered into obligation.

Meaning to Supreme Court: they/he/she entered into obligation.

Such different implied meanings appear due to the deictic morpheme /-w-/ that can refer to different individuals. As Levinson (1983) explained using Rosten's Yiddish story, the meaning of deictic elements may move from participant to participant.

3. /tämälliso sira ʔiskiğämmir diräs/ 'until he starts working after returning'

Literal meaning: until the trainee starts working after returning

Implied meaning: the time the trainee starts working

Meaning to defendant: the time he starts working after training

Meaning to plaintiff: the time the trainee works double of the training time

Meaning to high court: the time the trainee starts working

Meaning to Supreme Court: the time the trainee works double of the training time

4. /bägara ʔinna bätānat'al tāt'äyyak'i/ 'responsible jointly and individually'

Implied meaning: 1. Each warrantor is responsible to pay the entire warranty individually.

2. All warrantors are responsible to pay the entire warranty together with the main debtor.

Meaning to the warrantors: they are responsible if the main debtor failed to pay the debt.

Meaning to the plaintiff: All warrantors are responsible to pay the entire warranty together with the main debtor.

Meaning to courts: 1. Each warrantor is responsible to pay the entire warranty individually.

2. All warrantors are responsible to pay the entire warranty together with the main debtor.

The ideas in the following two sentences of the plaintiffs claim contradict each other:

1. /ʔandāññaw tākəssaš... lārəžžim gizze silt'ana tālikāw silt'anawin
kätäkätattälu bāhuwala wädä lakaččaw biro saymmälläsu k'ärtäwal/

'The first defendant ... has been sent for long term training. After attending the training he did not return to the contracting office.'

2. /ʔandāññaw tākəssaš ʔand ʔamāt kāhaya k'an särtāw siraččawn yäläk'k'äk'u/
'Serving for one year and 20 days, the first defendant had left his work'

According to the criteria set for the texts' language, different Articles of the civil code have been cited by both parties and courts. However, a focus is paid only to the Articles that are given different meanings by parties and courts.

Article 1727-2 says,

/wıl bäs'ihuf ʔindiddärräg giddeta sinor ... bähulätt misikkiröčč fit kaltärägaggät'ä ʔays'ānam/

The English version says, written form

- (1) Any contract required to be in writing shall be supported by a special document signed by all the parties bound by the contract.
- (2) It shall be of no effect unless it is attested by two witnesses.

Literal meaning: a written contract has no effect unless it is attested by two witnesses.

Implied meaning: a written contract is effective only if it is attested by two witnesses.

Meaning to plaintiff: two witnesses are not required for a written government contract.

Meaning to Defendants: _____

Meaning to high court: a written contract has no effect unless it is attested by two witnesses.

Meaning to Supreme Court: two witnesses are not required for a written government contract.

Article 1724 says,

/[sic]mängist wäyım lähızb ʔagälgılot yäk'omu [mäsirıabetöčč] giddeta yämmıwwawalubbaččäw wıločč hullu bäs'ihufınna bämmıggäbba ʔakuhuwan [bäfırdbet] mäzıgäb wäyım bāʔand bastädaddär kıfl [mäsirıabet] mäzıgäb wäyım wıl lämawwawal sılat't'an bätäsät't'äw säw fit mäsärat ʔalläbbaččäw/

The English version says, Contracts made with a public administration:

Any contract binding the Government or a public administration shall be in writing and registered with a court, public administration or notary.

The different meanings of the phrase /[sic]mängist wäyım lähızb ʔagälgılot yäk'omu mäsirıabetöčč giddeta yämmıwwawalubbaččäw wıločč hullu bäs'ihufınna bämmıggäbba ʔakuhuwan ... mäsärat ʔalläbbaččäw/ in the above Article are given below:

Literal meaning: all contracts with government or public administration should be made in writing and in appropriate way.

Implied meaning: 1. all contracts with a government should satisfy, among other things, the requirements of written contract.

2. all contracts with a public administration should satisfy among other things, the requirements of written contract.

Meaning to the plaintiff: all contracts with a government or public administration should be in writing among other things but do not need to be attested by two witnesses.

Meaning to defendants: _____

Meaning to high court:

1. all contracts with a government should constitute two witnesses as one of the requirements of written contract from other things.
2. all contracts with a public administration should constitute two witnesses as one of the requirements of written contract from other things.

Meaning to Supreme Court: all contracts with a government or public administration should be in writing among other things but do not need to be attested by two witnesses

The judgments of West Gojam High Court and Amhara Region Supreme Court are different from each other, for they have given different meanings to Articles 1727-2 and 1724 of the civil code. According to the judgment of the high court, any written contract without the inclusion of two witnesses is considered only as a draft. Therefore, the incompleteness of the form of the contract exposes it for invalidation. This judgment of high court that considers the literal meaning of Article 1727-1 coincides with the idea Soames (2005) has proposed for communicating a proposition without defeating conversational implicature.

On the other hand, the judgment of the Supreme Court has been made by considering the intention of the legislator for the need of two witnesses in a written contract. The main reason for the inclusion of two witnesses in a written contract is to verify the formation of the contract in case one of the parties denies the contract. However, no one party has denied the existence of this contract. In addition, citing Article 1724 of the civil code, the Supreme Court has explained

that registration of the contract in notary shows the authenticity of the contract. The Supreme Court's judgment goes in line with Banch's (2005) idea that shows the importance of considering the intention of the decoder who has left much of what s/he means to inferences

Finally, The Supreme Court might have considered the need of two witnesses in this contract had the defendants denied the existence of their contract. Therefore, the defendant could have won their case if they had good knowledge of the law to deny the existence of the contract.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATION

5.1 Conclusion

The importance of contract for the smooth running of business transaction and for effective interaction of a given society has been mentioned. However, the absence of dependable party in a contract exerts a negative influence on business activities. For this reason, the need of courts to interpret contracts of parties in the process of giving solution for a contract dispute is found indispensable.

Since the principal reasons for the dispute of parties is interpretation problem, special attention is exerted on semantic-pragmatic contribution to get the intention of parties in a contract.

In the attempt of encompassing different contract court cases, I have included contract of sale of movable and immovable properties, contract of will and contract of employment. While parties in the contract of sale of immovable property and in contract of one of the will are from countryside, parties in contract of sale of movable property, contract of employment and contract of the other will are from towns.

The research has been instigated with an assumption that interested people will be benefited from its result. The result of the study may provide information about the reality of the society in business activities.

The objectives of the study are identifying semantic meaning of a contract text and the provisions of contract law. In addition, the importance of co-text in getting the intention of parties in contracts and the intention of legislators in the contract provisions is the other major target of the paper.

In order to attain the intended objectives, document analysis has been used as the only means of analyzing the contents of contract texts, courts' judgments, and cited provisions of law. The data are obtained only from dead files.

In the attempt of doing the research in a scientific way, facts and concepts that are related to the issue are collected as a conceptual framework. Based on the literature, various criteria are prepared under different headings. These criteria which treat documents according to the form of

the documents and linguistic aspects have been used as guidelines to the interpretation and analysis of court documents.

The major findings of the study are summarized as follows:

1. In some of the contracts, contracting parties who prepare the contract may use words and phrases in their general sense in order to obscure important information about their obligations of the contract. For this reason, the other party may be convinced to conclude a contract without being aware of the required quality of the thing in the contract. For example, in court case-1, /yätäk'orät'anna band bota yätäsäbässäbä/ 'cut and collected at one place' of the first auction letter was changed into /jätäk'orät'anna jätäsäbässäbä/ 'cut and collected' in the second auction letter. The seller might have omitted /band bota/ 'at one place' deliberately in order to hide information about the poor quality of wood gathered in other places.
2. Failure to include specific information about the quality, amount, number and purpose of the thing on sale may expose one of the parties for loss. For instance, in the contract for sale of juniper wood parties did not include the quality or purpose of poles of the wood. For this reason, the buyer was forced to accept logs of wood that lack the required quality for lumber.
3. Giving different implied meanings to a word of a contract, by different courts, results in different judgments. For example, from the use of the Amharic phrase /k'alēn ʔasarfeyalāhu/ 'I laid down my word' in a will contract court case -3, two low courts interpreted ʔasarfeyalāhu as wrote but the Supreme court did it as dictated. For this reason, the two low courts' gave their judgment based on holograph will whereas the Supreme Court did its judgment based on public will.
4. Unable to identify approximate synonymy of words causes judges for wrong judgments. For example, the two words, cancellation (1771-1) and invalidation (1696), were considered as synonymous in the judgment of a court although they carry different intention of the legislative of contract law.
5. Overlooking some possible meanings that result from the use of conjunctions may make the judgments unreliable. For instance, the high court has not considered the different

implied meanings of the phrase, more than 500 Ethiopian ***may only be proved in writing or by a confession made or oath taken in court, of Article 2472-3***. Although this phrase has given the plaintiff right to verify his Birr 4000 payment by a confession or oath, the high court did not give the plaintiff a chance to get the confession or oath. Instead, it gave its judgment by mentioning the absence of receipt. Moreover, sometimes courts may overlook the legal requirements indicated in contract provisions. For instance, a law court has failed to invalidate a will that includes only three witnesses although the law requires the inclusion of four witnesses.

- 6 The intention of parties is not always available in the words of a written text explicitly. Therefore, disregarding the action of parties, co-text of the text of contracts and relying only on semantic contents of the available documents also attribute to wrong judgments. For example, in contract court case-1, the seller admitted moving some poles of wood to another place before the opening of the auction. This action should have been used to speculate the fraudulent intention of ASWARDO in hiding information about the quality of the wood which was moved to another place. In addition, in court case-3, the co-text /yihim sir?at/ ‘this formality’ of Article 881-2 was not considered in getting the intention of the legislative
- 7 The fraudulent intention of one of the parties may be exposed by offering forged documents, cancelling and changing words of the original text of a contract. For example, the year number in Appendix-2a is changed from 1984 into 1989. Appendix-4a and 4b show addition of a witnesses name and preparing different but very similar will. There are people, even lawyers, who are engaged in falsifying documents such as wills and contracts and use it in their court arguments.

5.2 Recommendation

Based on the findings summarized above, the following points are recommended:

1. To include detail information about the subject of their contract, parties should consider the inclusion of definition of the thing by providing the required properties expected from the thing in the contract or by citing its synonyms.

2. Judges should consider encyclopedic knowledge of contracting parties, linguistic context of a text, and acts of parties to identify the intention of parties in the interpretation of ambiguous words of a contract.
3. Judges should consider the implied meanings of words and phrases in order to obtain the intention of parties in the words of their contract. For example, the purpose of a party in buying sticks of wood can be worked out from his job license that was required by a seller. Therefore, courts should not always expect such a purpose to be explicitly written in the contract.
4. An analyst of a text such as judges ought to pay special attention to consider the different possible meanings that a conjunction, in a sentence, is likely to attribute because such a conjunction may carry different intention of a decoder.
5. Parties in a contract court case should identify and use the appropriate provisions in their arguments. For this reason, they should read all provisions of contract and its procedural laws thoroughly. Alternatively, they should hire or at least consult a qualified lawyer.
6. A testator should prepare his/her will using and mentioning legal provisions. Mentioning legal Articles of contract law may not be sufficient, but including the requirements of the Articles in the will should not be overlooked. In addition, an illiterate testator should expose his/her will to a lawyer to ascertain the legality of the will. Finally, depositing the will in a court registry will protect the will from being falsified by any interested person.
7. Giving semantics as a course to law students may help judges, lawyers and prosecutors in the interpretation of contract documents and contract provisions.
8. Including imaginary court judgments, arguments of parties and related issues as a reading passage or listening text in students' textbooks can indirectly teach students about the formation of contracts.
9. Giving people some contract lessons through mass-medias such as television and radio is likely to make people aware of concluding effective and legal contracts. As a result, some contracts may be prevented from fraudulent intention of some contracting parties.

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DECLARATION

I, the undersigned, declared that this thesis is my original work, has not been presented for a degree in any other university and that all sources of material used for the thesis have been duly acknowledged.

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