

# THE SALE OF GOODS ACT 1930

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# HISTORY

- ▶ Sale of goods act was enacted in 1930.
- ▶ Borrowed from the English act.
- ▶ Came into force in July, 1930.
- ▶ Prior to the act, the law of sale of goods was contained in chapter VII of the Indian contract act, 1872.
- ▶ It extends to the whole of India including the state of Jammu and Kashmir

# FORMATION OF CONTRACT OF SALE

► **DEFINITION** : As per sec 4 (1) of the sale of goods act

*A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price*

# ESSENTIALS OF A CONTRACT OF SALE

- ▶ Two parties- buyer and seller
- ▶ Transfer of general property (ownership )
- ▶ Goods : subject matter of the contract of sale. According to sec 2(7) “goods” means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale
- ▶ Price
- ▶ Essential elements of a valid contract
- ▶ A contract of sale may be absolute or conditional.

# ESSENTIALS OF A CONTRACT OF SALE

- ▶ The term “Contract of sale of goods” is a generic term and it includes:
  - ▶ a. **Sale and**
  - ▶ b. **An agreement to sell**


where the seller transfers the ownership rights to the buyer immediately on making the contract, it is the contract of sale, but **where the ownership rights are to pass on some future date upon the fulfillment of certain conditions then it is called an agreement to sell.**

## DIFFERENCE BETWEEN

### Sale

- Ownership passes to the buyer.
- It is a executed contract.
- Risk of loss falls on the buyer.
- Seller cannot resell the goods.
- It can be in case of existing and specific goods.

### Agreement to sell

- Ownership remains with the seller.
  - It is a executory contract.
  - Risk of loss falls on the seller.
  - Seller can sell goods to third party.
  - It can be in case of future and unascertained goods.
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## Sale

- ❖ In case of breach of a contract, seller can sue for the price of the goods .
- ❖ The seller is only entitled to the rateable dividend of the price due if the buyer becomes insolvent.
- ❖ The buyer is entitled to recover the specific property from the assignee if the seller becomes insolvent.

## Agreement to sell

- ❖ In case of breach of a contract, seller can sue only for damages not for the price.
- ❖ The seller may refuse to sell the goods to the buyer w/o payments if the buyer becomes insolvent.
- ❖ Buyer can claim only rateable dividend for the money paid in case the seller becomes insolvent.

# KINDS OF GOODS

EXISTING  
GOODS

FUTURE GOODS

CONTINGENT  
GOODS

SPECIFIC GOODS

UNASCERTAINED  
GOODS



<b>BASIS</b>	<b>FUTURE GOODS</b>	<b>CONTINGENT GOODS</b>
Procurement of goods	Doesn't depend on contingencies	depends on contingencies
Discharge of parties	The parties cannot be discharged if the goods cannot be manufactured or procured	The parties are discharged if the goods cannot be manufactured or procured

# EFFECT OF PERISHING OF SPECIFIC GOODS

## ▶ **Goods perishing before making of contract (SEC 7)**

Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

## ▶ **Goods perishing before sale but after agreement to sell (SEC 8)**

Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby void.

# ASCERTAINMENT OF PRICE (SEC 9, 10)

## ► MODES OF ASCERTAINING THE PRICE MAY BE (SEC 9)

1. Expressly stated in the contract.
2. Fixed in a manner provided by the contract
3. Determined by the course of dealings between the parties.
4. Reasonable price

# Agreement to sell at valuation (sec 10)

- ▶ (1) Where there is an agreement to sell goods on the terms that the price is to be **fixed by the valuation of a third party and such third party** cannot or does not make such valuation, the agreement is thereby avoided;
- ▶ **PROVIDED** that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.
- ▶ (2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, **the party not in fault may maintain a suit for damages against the party in fault.**

# STIPULATION AS TO TIME (SEC.11)

1. **STIPULATION AS TO TIME OF PAYMENT**
2. **STIPULATION AS TO TIME OF DELIVERY**

## DOCUMENT OF TITLE TO THE GOODS

It means proof of the ownership of the goods. E.g. Bill of lading, dock warrant, railway receipt etc.

## DISTINCTION BETWEEN

### Sale

- Property in the goods is transferred to the buyer immediately at the time of the contract.
- The position of the buyer is that of owner of the owner of the goods.

### Hire-purchase agreement

- The goods passes to the hirer on the payment of the last installment.
- The position of the buyer is that of a bailee till he pays the last installment.



## Sale

- The buyer cannot terminate the contract and is bound to pay the price of the goods.

## Hire purchase agreement

- The hirer may, terminate the contract, by returning the goods to its owner without any liability to pay the remaining installment.



## DISTINCTION BETWEEN

### Sale

- The property in goods is transferred from the seller to the buyer.
- The return of goods in contract of sale is not possible.

### Bailment

- There is only transfer of possession of goods from the bailor to the bailee for any of the reasons like safe custody, carriage etc.
- The bailee must return goods to the bailor on the accomplishment of the purpose for which bailment was made.





## Sale

- The consideration is the price in terms of money.

## Bailment

- The consideration may be gratuitous or non gratuitous.

