

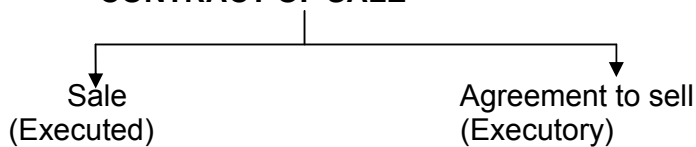
CHAPTER 2 - THE SALE OF GOODS ACT, 1930

UNIT 1: FORMATION OF CONTRACT OF SALE

• **INTRODUCTION :**

- ❖ It came into force on the 1st of July, 1930.
- ❖ It is applicable to whole of India except Jammu & Kashmir.
- ❖ The Law relating to this statute was contained in the Chapter VII of the Indian Contract Act, 1872.
- ❖ Where the Sale of Goods Act is silent on any point, the general principles of the law of contract apply.

• **CONTRACT OF SALE**



The term 'contract of sale' is defined in Section 4 (1) of the Sale of Goods Act, as under :
 "A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in the goods to the buyer for a price. "

• **DEFINITIONS**

1. **Buyer :**

"Buyer means a person who buys or agrees to buy goods." [Sec. 2(1)]

2. **Seller :**

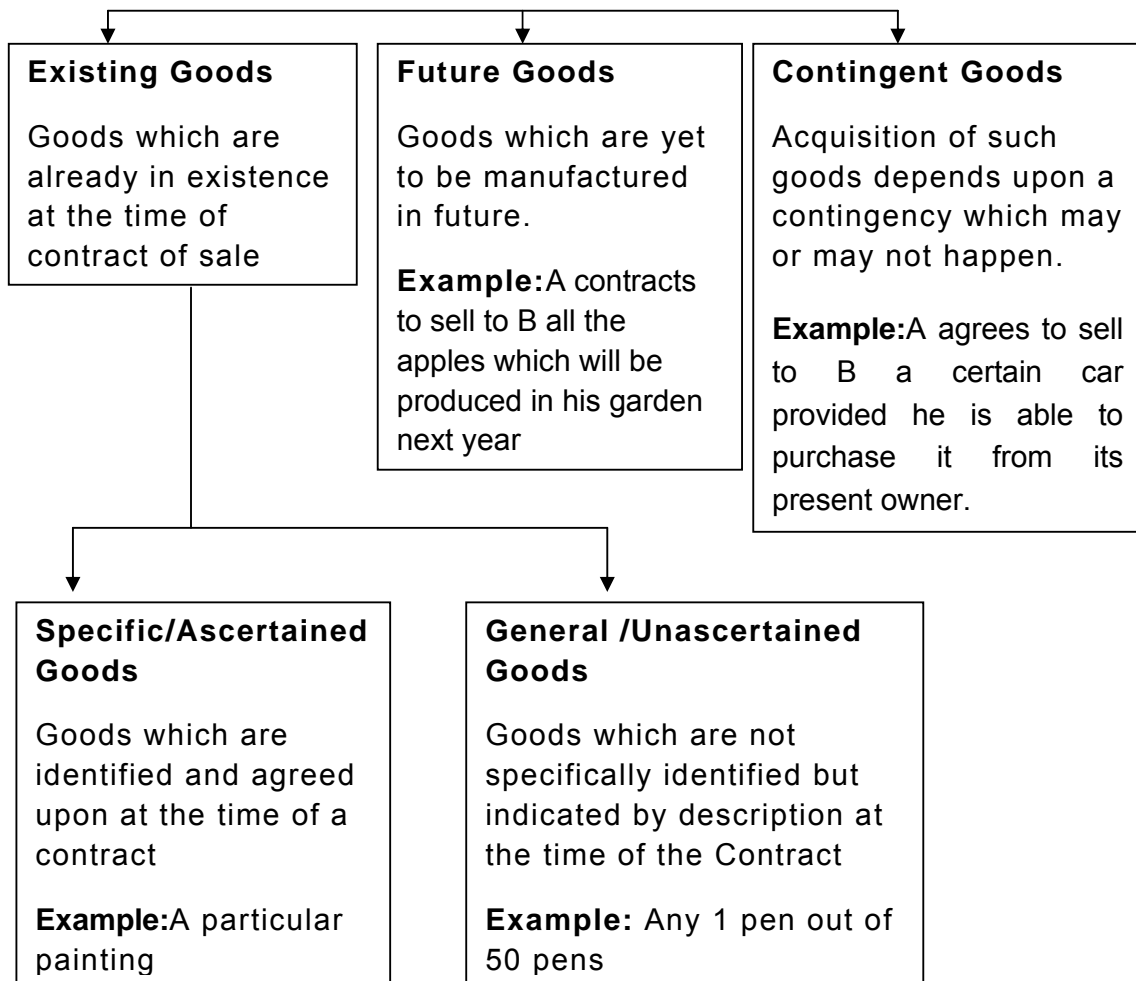
"Seller means person who sells or agrees to sell goods." [Sec. 2(13)]

3. **Goods :**

"Goods" means every kind of movable property other than actionable claims and money; and includes stocks 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. [Sec. 2 (7)].

- ❖ An actionable claim is a claim to any debt. For example: a money debt, book debts, etc.
- ❖ Money here means legal tender of money, i.e. the recognised circulation in the country; but not old rare coins.
- ❖ Things attached to the earth are not movables, but trees, growing crops which can be easily severed from the earth before sale. Fruits, vegetables and flowers which can be separated from the trees, are included in 'goods'.
- ❖ Livestock i.e. cows, buffaloes, cats etc are 'goods'.
- ❖ Patents, copyrights, goodwill, trade-marks, are all considered goods which can be the subject matter of a contract.
- ❖ A ship has also been considered to come within the definition of the word "goods". Similarly water, gas and electricity are included in the definition, though some writers doubt if they can be classed among "goods".

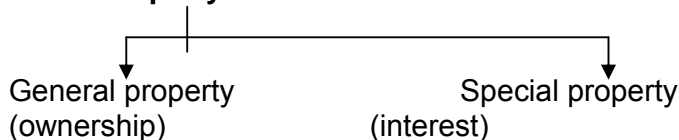
- ❖ As per English law, “shares and stock” are not treated as “goods”.
- ❖ To conclude, everything movable is goods, except the following:-
 1. Money
 2. Actionable Claims
 3. Immovable assets
 4. Services
- ❖ Classification of Goods:



4. Price

- ✓ “Price’ means the money consideration for a sale of goods.” [Sec. 2 (10)].
- ✓ No sale can take place without a price.
- ✓ Therefore,
 - a. Exchange of goods for goods will not be considered as sale
 - b. Gift of goods will not be considered as sale
 - c. Exchange of goods for goods along with price will be considered as sale

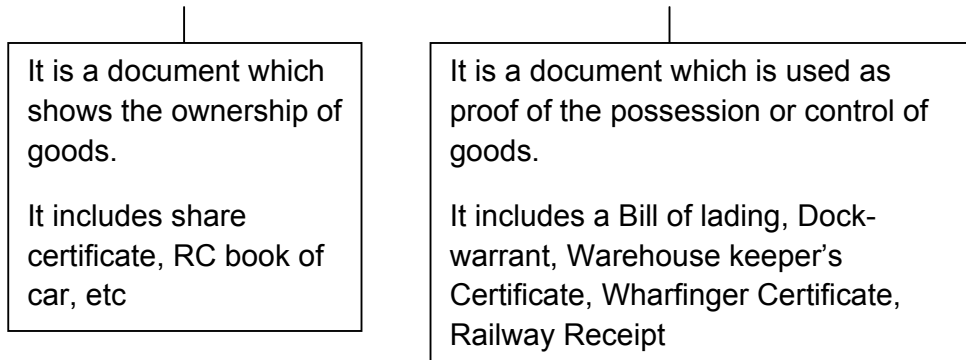
5. Property:



But in Sale Of Goods Act, 'property' means the general property in goods and not merely a special property

Example: A who owns the goods pledges them to B, then A has the general property in the goods, while B has a special property or interest in them.

6. Documents showing Title to Goods/ Documents of Title to Goods

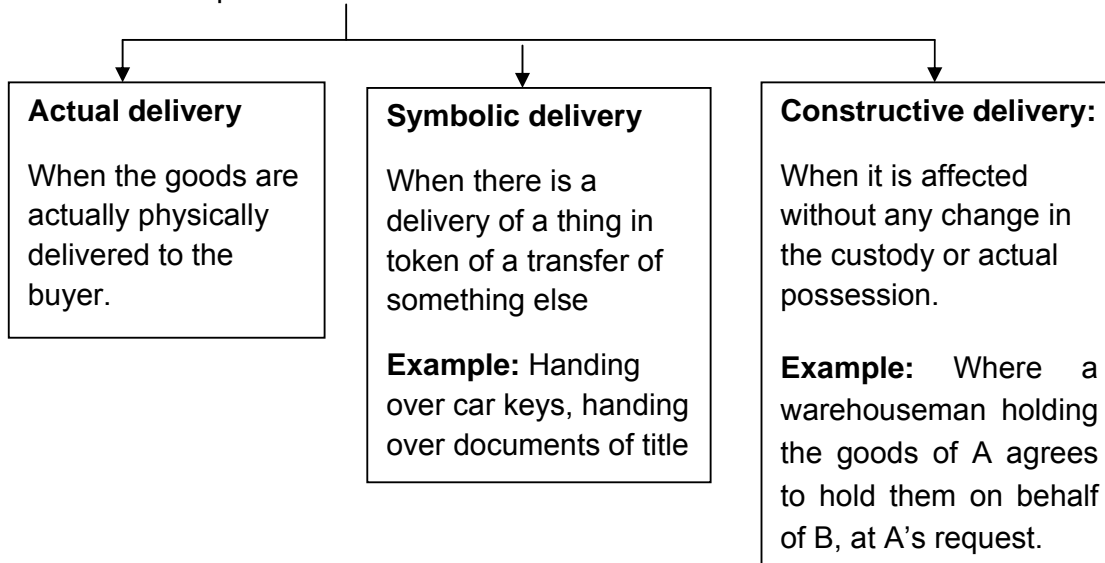


7. Mercantile Agent:

"Mercantile Agent" means an agent having in the customary course of business as such agent, authority either to sell goods, or to consign goods for the purpose of sale, or, to buy goods, or to raise money on the security of goods." [Section 2(9)]. If a person is not carrying on business as such agent, he would not fall under this definition. Thus, a contractor, a warehouseman, a carrier or a servant and a friend would be excluded.

8. Delivery:

"Delivery" means voluntary transfer of possession from one person to another" [Sec. 2 (2)]. Therefore, in case of theft, there is no delivery, though there is a transfer of possession.



• ESSENTIAL ELEMENTS OF A VALID CONTRACT OF SALE

Following are the essential elements of a valid contract of sale:

1. All the requirements of a valid contract must be fulfilled:

A contract of sale must fulfil all the requirements of a valid contract, e.g., free consent, consideration, competency of the parties, lawful object and

consideration. If any of the essential elements of a valid contract is missing then the contract of sale will not be valid.

2. **There must be two parties to the contract of sale:**
There must be two parties, one seller and the other buyer. The reason for the same is that in a contract of sale, the ownership of the goods has to pass from one person to another.
3. **There must be some goods as a subject-matter:**
The 'goods' as defined in Section 2 (7) of the Sale of Goods Act.
4. **The property in the goods must be transferred to the buyer:**
The term 'property' in the goods means the ownership of the goods. In every contract of sale, the ownership of the goods must be transferred by the seller to the buyer, or there should be an agreement by the seller to transfer the ownership to the buyer. The term 'property' here means the general property, i.e., all ownership rights of the goods, and not merely a special property, i.e., limited rights such as right of a Pawnee.
5. **There must be some price for the goods:**
The goods must be sold for some price. The term 'price' is defined in Section 2 (10)
6. **A contract of sale can be absolute or conditional** [Section 4(2)].

• **DISTINGUISH BETWEEN**

1. SALE AND AGREEMENT TO SELL

SALE	AGREEMENT TO SELL
1.Transfer of property: the property in goods passes from the seller to the buyer immediately	1.Transfer of property: In agreement to sell, the ownership of the property will pass from the seller to the buyer at some future time or on fulfilment of some conditions.
2.Nature of contract: A sale is an executed contract	2.Nature of contract: An agreement to sell is an executory contract
3. Consequences of Breach by buyer : In a sale, if the buyer fails to pay for the goods, the seller can: a) Sue him for recovery of price b) Claim damages	3. Consequences of Breach by buyer : In an agreement to sell, the seller can only sue for damages for breach of contract
4. Consequences of Breach by seller : In a sale, if the seller defaults, i.e. commits a breach, the buyer can: 1. Claim delivery of the goods from third party 2. Sue for damages	4. Consequences of Breach by seller: In the case of an agreement to sell, if the seller commits a breach, the buyer can only claim damages.
5. Transfer of risk: In a sale, if the goods are destroyed, the loss falls on the buyer even though they are in the possession of the seller.	5. Transfer of risk: In an agreement to sell, if the goods are destroyed, the loss falls on the seller, even though they are in the possession of the buyer.

6. Subsequent destruction: A subsequent loss or destruction of the goods is the liability of the buyer.	6. Subsequent destruction: Such loss or destruction is the liability of the seller.
--	--

2. SALE AND HIRE- PURCHASE

SALE	HIRE-PURCHASE
1. Property in the goods is transferred to the buyer immediately at the time of Contract.	1. The property in goods passes to the hirer upon payment of the last instalment.
2. The position of the buyer is that of an Owner of the goods.	2. The position of the hirer is that of a bailee till he pays the last instalment.
3. The buyer cannot terminate the contract and is bound to pay the price of the goods.	3. The hirer may, if he so likes, terminate the contract by returning the goods to its owner without any liability to pay the remaining instalments.
4. The seller takes the risk of any loss resulting from the insolvency of the buyer.	4. The owner takes no such risk, for if the hirer fails to pay an instalment the owner has right to take back the goods.
5. The buyer can resell the goods.	5. The hirer cannot resell the goods till the last instalment.
6. Tax is levied at the time of the contract.	6. Tax is not leviable until it eventually ripens into a sale.

3. SALE AND BAILMENT

SALE	BAILMENT
1.The property in goods is transferred from the seller to the buyer.	1. There is only transfer of possession of goods from the bailor to the bailee for any of the reasons like safe custody, carriage,etc.
2. The return of goods in contract of sale is not possible.	2. The bailee must return the goods to the bailor on the accomplishment of the purpose for which the bailment was made.
3. The consideration is the price in terms of money.	3. The consideration may be gratuitous or non-gratuitous.

- **BARTER AND EXCHANGE**

Barter:

Where goods are transferred for goods, the transaction is one of a ‘barter’ and not sale, i.e. wheat is given in exchange of rice.

Exchange :

Where money is exchanged for money, the transaction is one of ‘exchange’ and not sale, i.e. 100 rupee note is exchanged for 2 notes of Rs. 50.

• **SALE AND CONTRACT FOR WORK AND LABOUR**

A contract of sale has to be distinguished from a contract for work and labour. The contract of sale contemplates the delivery of goods, whereas in contract for work and labour or materials, the contract is for the exercise of the skill and labour, and delivery of goods is only subsidiary.

Example: G commissioned R, an artist to paint a portrait and supplied the canvas and the paint. Held, it is a contract for work and labour and not one for the sale of goods.

• **FORMATION AND MODES OF A CONTRACT OF SALE**

A contract of sale is made by an offer to buy or sell by one person, and the acceptance of such offer by another person. And it may be made in anyone of the following modes [Section 5 (1)]:

1. There may be immediate delivery of goods, but the price to be paid at some future date.
2. There may be immediate payment of price, but the delivery to be made at some future date.
3. There may be immediate payment of price and the immediate delivery of goods.
4. The price and delivery of the goods may be postponed.
5. The price and delivery of the goods may be agreed to be made in instalments.

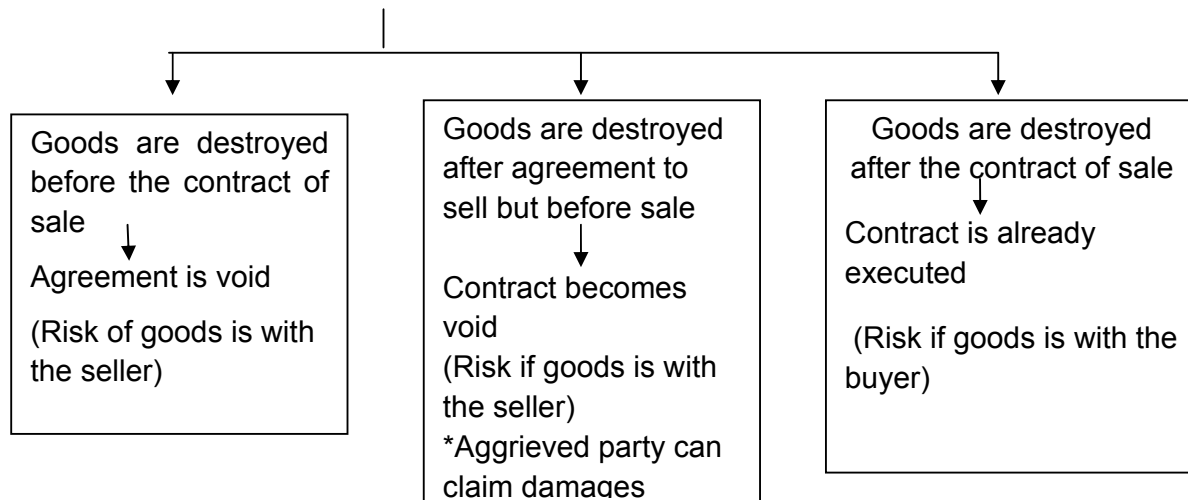
✓ It may be noted that no particular form is necessary for the making of a contract of sale.

✓ It may be in any form, e.g., a contract of sale may be made

- (a) In writing, or
- (b) By words of mouth, or
- (c) Partly in writing and partly by words of mouth, or
- (d) May be implied from the conduct of the parties.

However, if any particular mode is prescribed by any law, then the contract of sale must be made in that particular mode [Section 5 (2)].

• **EFFECT OF DESTRUCTION OF GOODS**



- **PRICE AND MODES OF FIXING THE PRICE**

The price means the money consideration for the sale of goods [Section 2 (10)]. Price may be fixed in any of the following modes provided in Section 9:

1. The fixation of price by the contract of sale [Section 9 (1)]:

The price may be expressly fixed the contract of sale. The parties may fix any price they like.

2. The fixation of price in a manner provided in the contract of sale [Section 9 (1)]:

The contract of sale may provide for some manner in which 'price is to, be fixed. In such cases, the price may be fixed in a manner provided in the contract.

3. The fixation of price by course of dealings [Section 9 (1)]:

Sometimes, the customs or usage of trade provides certain principles for the determination of the price. In such cases, the price may be determined from the course of dealings between the parties.

4. The fixation of a reasonable price [Section 9 (2)]:

Sometimes, none of the above principles is applicable. In such cases, the buyer shall pay to the seller a reasonable price. The term 'reasonable' price is a question of fact which depends on the circumstances of each particular case.

5. The fixation of price by third party [Section 10]:

✓ The parties may agree to sell and buy goods on the terms that the price shall be fixed by the valuation of a third party.

✓ However, if such third party fails to make the valuation, the contract becomes void. But if the buyer has received the goods and has appropriated them, he becomes bound to pay reasonable price to the seller.

✓ Sometime, the third party is influenced or prevented by the buyer or the seller from fixing the price. In such cases, the innocent party may recover damages from the defaulting party.

Example:

A agreed to sell his 100 bags of rice to B at a price to be fixed by C. But C failed to fix the price. In this case, the agreement becomes void on C's failure to fix the price.

Example:

A agreed to sell his 100 quintals of wheat to B at a price to be fixed by C. C is willing to value wheat and fix the price. But, A by his wrongful acts, prevents C from making the valuation of the goods. In this case, B can claim damages from A.

UNIT 2: CONDITIONS AND WARRANTIES

• **INTRODUCTION :**

In every contract of sale of goods there are certain stipulations made with reference to goods which are the subject-matter thereof. Such stipulations differ in character and importance. The clause divides stipulations into conditions and warranties.

Condition:

“A condition is a stipulation essential to the main purpose of the contract, that breach of which gives a right to treat the contract as repudiated.”

Warranty:

“A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not a right to reject the goods and treat the contract as repudiated”.

CONDITION	WARRANTY
1.A condition is essential to the main purpose of the contract.	1. It is only collateral to the main purpose of the contract.
2. In case of breach of condition, aggrieved party can: i. Rescind the contract, return the goods and claim refund. ii. Claim damages	2. In case of breach of warranty, aggrieved party can only claim damages.
3. A breach of condition may be treated as a breach of warranty	3. A breach of warranty cannot be treated as a breach of condition.
4. Example:	4. Example:

• **WHEN A CONDITION CAN BE TREATED AS A WARRANTY :**

1. **Voluntary waiver of condition:**

Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

2. **Where the buyer elects to treat the breach of the conditions, as one of a warranty. That is to say, he may claim only damages instead of repudiating the contract**

3. **Compulsory waiver of a condition:**

Where a contract of a sale is not severable and the buyer has accepted the goods or part thereof, the breach of any condition to be fulfilled by the seller

can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a terms of the contract, express or implied, to that effect

Example:

B agrees to buy from A 20 bales of cotton by sample. The cotton is delivered to B who makes payment of its price. B upon examination of cotton finds them not equal to sample but uses 2 bales and sells 3. At this point he cannot rescind the contract and recover the price. But A is bound to compensate for the loss caused to B by breach of warranty.

4. Impossibility:

Nothing in this section shall affect the case of any condition or warranty, fulfilment of which is excused by reason of impossibility or otherwise.

• **CONDITIONS :**



Express conditions: Express conditions are those, which are agreed upon between the parties at the time of contract and are expressly provided in the contract.

Implied Conditions:

- ✓ It is a condition, which the law implies into the contract of sale. The law presumes that the parties have incorporated it into their contract.
- ✓ The implied conditions are read into every contract of sale unless they are expressly excluded by the parties.
- ✓ In case of conflict between the express and implied conditions, the express term shall prevail and the implied terms shall not be considered.
- ✓ Following are the implied conditions which are contained in the Sale of Goods Act :

1. Conditions as to title:

- ❖ According to this condition, it is presumed that the seller has a valid title to the goods, i.e., he has the right to sell the goods. If later on, the buyer comes to know that the seller had no valid right to sell the goods, then he may reject the goods and claim the refund of the price, if already paid.
- ❖ This implied condition may be analysed as under:
 - (i) In case of sale, the implied condition is that the seller has the right to sell the goods, and
 - (ii) In case of an agreement to sell, the implied condition is that the seller will have the right to sell the goods at the time when the ownership is to pass from the seller to the buyer.
- ❖ **Example:**

2. Condition as to description:

- ❖ Sometimes, the goods are sold by description. In such cases, the implied condition is that the goods shall correspond with the description.
- ❖ The term 'correspondence with description' means that the goods purchased by the buyer must be the same which were described by the seller.
- ❖ If subsequently, it is discovered that the goods do not correspond with the description, the buyer may reject the goods and claim the refund of the price, if already paid.
- ❖ **Example:**

3. Condition as to sample:

- ❖ In case of sale of goods by showing the sample to the buyer, there are following three implied conditions,
 - (i) That the goods delivered shall correspond with the quality of the sample
 - (ii) That the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
 - (iii) That the goods shall be free from latent defects (i.e., the defects which are not discoverable on reasonable examination of sample)

4. Condition as to sample as well as description:

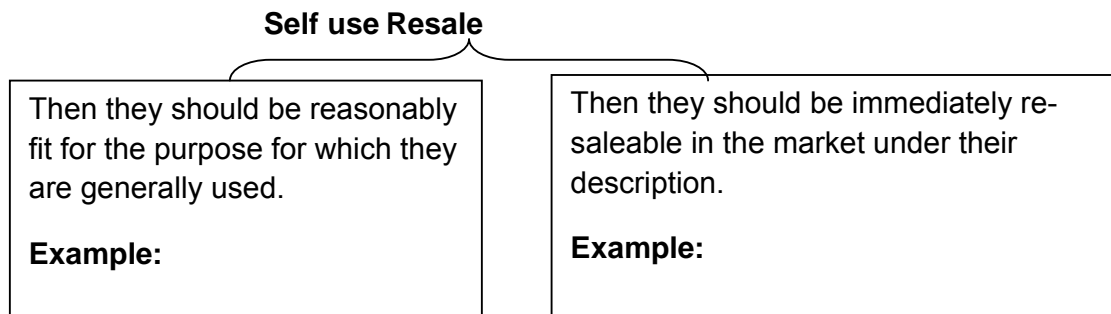
- ❖ Sometimes, the seller shows sample of the goods to the buyer and also gives him their description. In such cases, the implied condition is that the goods shall correspond with both, the sample as well as description.

5. Condition as to quality or fitness for buyer's purpose:

- ❖ Ordinarily, there is no implied condition that the goods shall be fit for the particular purpose of the buyer.
- ❖ Buyer is not responsible
 - (i) To know the particular purpose of buyer.
 - (ii) If buyer chooses the goods negligently.
- ❖ However in following exceptions, there is an implied condition that the goods shall be fit for the buyer's specific purpose. In following cases seller is responsible to the buyer:
 - (i) If the buyer makes his purpose clear to the seller.
 - (ii) If the buyer buys the goods 'relying upon his skill and judgment'.
- ❖ **Example:**

6. Condition as to merchantability:

The term 'merchantability' has not been defined in the Sale of Goods Act. However, it has been interpreted by the courts, and basically it means the two things, namely: If goods are purchased for



7. Condition as to wholesomeness:

This condition is a part of the condition as to merchantability. It is applicable in cases of eatables, i.e., foodstuffs and other goods which are used for human consumption. As per this condition, goods sold must be fit for human consumption.

Example:

• WARRANTIES :



Implied Warranties:

- ✓ **It is a warranty, which the law implies into the contract of sale. The law presumes** that the parties have incorporated it into their contract.
- ✓ The implied warranties are read into every contract of sale unless they are expressly excluded by the parties.
- ✓ In case of conflict between the express and implied warranties, the express term shall prevail and the implied terms shall not be considered.
- ✓ Following are the implied warranties which are contained in the Sale of Goods Act :
 - 1. Warranty as to quiet possession:**
 - ❖ Where the buyer has obtained the possession of the goods, he has a right to enjoy them in a way he likes, i.e., no one should interfere with the quiet enjoyment of the buyer.
 - ❖ If buyer's right of possession and enjoyment is disturbed by anyone, then the buyer can recover damages from the seller.
 - ❖ **Example:**

2. Warranty as to free from encumbrance:

- ❖ In every contract of sale there is an implied warranty that the goods sold shall be free from any charge.
- ❖ If the possession of the buyer is disturbed due to such charge in favour of third party, he can claim damages from the seller.
- ❖ **Example:**

3. Disclosure of dangerous nature of goods:

- ❖ There is another implied warranty on the part of the seller that in case the goods are inherently dangerous or they are likely to be dangerous to the buyer and the buyer is ignorant of the danger, the seller must warn the buyer of the probable danger.
- ❖ If there is breach of this warranty, the seller will be liable in damages.

4. Warranties implied by customs:

- ❖ Like implied conditions, implied warranties are also attached by custom or usage of trade. This is so because the parties enter into an agreement subject to the known customs or usages of trade.

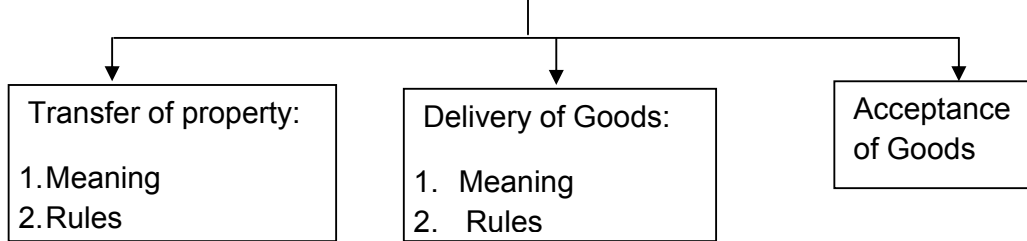
• THE DOCTRINE OF CAVEAT EMPTOR**(BUYER BEWARE) :**

- ❖ 'Caveat Emptor' is a Latin expression which means "let the buyer beware".
- ❖ The Doctrine states generally seller is not responsible for bad goods.
- ❖ This Doctrine takes the side of the seller.
- ❖ As per the ruler, seller is not responsible in following cases:-
 - (i) To know the particular purpose of buyer.
 - (ii) If buyer chooses the goods negligently
 - (iii) If the goods are defective and the defect is patent (i.e. defect which can be discovered by mere inspection)

❖ Exceptions : The exceptions to the doctrine of Caveat Emptor; which are mentioned below (i.e in the following seller is responsible) :

1. Where the buyer specifies the particular purpose for which the goods are required to the seller.
2. Where buyer relies on the seller's skill or judgment.
3. Where there is contract of sale by sample, the rule of caveat emptor will not apply if the goods do not correspond with sample
4. Where goods are bought by description, the goods shall correspond with the description.
5. If the goods are bought both by sample as well as by description this rule will not apply if goods do not correspond with both sample and description.
6. There is an implied condition that the goods shall be of merchantable quality
7. When the seller actively conceals some defect in the goods so that the same could not be discovered by the buyer on a reasonable examination, then the rule of Caveat Emptor will not apply.
8. When the goods are purchased under some brand name.

UNIT 3: TRANSFER OF OWNERSHIP AND DELIVERY OF GOODS



• TRANSFER OF PROPERTY (OWNERSHIP) :

A. Meaning:

- ❖ The term 'property in the goods' may be defined as the legal ownership of the goods.
- ❖ Transfer of Ownership means transfer of Risk, Rights and Returns pertaining to the goods.
- ❖ The term 'property in the goods' must be distinguished from the term 'possession of the goods'. The term 'property in the goods' means the ownership of the goods, whereas the term 'possession of goods' simply means the custody or physical control over the goods.

B. Rules:

1. **The ownership is transferred at the time of making the contract** if the following conditions' are fulfilled:
 - (a) **The sale must be of specific goods:**
These are the goods which are identified and agreed upon at the time of contract.
 - (b) **The goods must be in a deliverable state:**
The goods are said to be in a deliverable state when they are in such a state that the buyer would, under the contract, be bound to take delivery of them.
 - (c) **The contract of sale must be unconditional:**
A contract is unconditional in which no condition is imposed regarding the transfer of ownership of the goods.
2. **Transfer of ownership in case of sale of unascertained goods.**
The unascertained goods are the goods which are not specifically identified at the time of making the contract of sale.
In case of sale of unascertained goods, the ownership is transferred to the buyer on the fulfilment of both the following conditions:
 - (i) **Ascertainment of goods:**
It is the process by which the goods to be delivered under the contract are identified and set apart. It is a unilateral act of the seller alone to identify and set apart the goods.
 - (ii) **Appropriation of goods:**
It is the process by which the goods to be delivered under the contract are identified and set apart with the mutual consent of the seller as well as buyer. It is a bilateral act of the seller and the buyer to identify and set apart the goods.

Example:

3. **Where the specific goods are to be put in a deliverable state by the seller:** The ownership is transferred as soon as the seller has put the goods in a deliverable state and the buyer comes to know about the act of the seller.
4. **Where the specific goods in a deliverable state are to be weighed or measured by the seller** to ascertain the price, the ownership is transferred to the buyer as soon as the seller has done the act of ascertaining the price and the buyer comes to know about this act of the seller.

Example:

5. However, parties may decide to **pass the ownership as per the contract.**
6. **Transfer of ownership in case of sale on approval**
 - ❖ The ownership of goods is with seller and the possession of goods is with buyer
 - ❖ The buyer has an option to return the goods.
 - ❖ The ownership is transferred to the buyer in any of the following three ways:
 - (i) **When the buyer accepts the goods:**
The acceptance by the buyer may be express or implied.
 - (ii) **When the buyer adopts the transaction:**
The buyer may adopt the goods by doing some act which shows that he has accepted the goods e.g., where he further sells or pledges the goods.
 - (iii) **Where the buyer fails to return the goods within fixed or reasonable time**
7. **Reservation of right of disposal**
 - ❖ The seller may like to retain the ownership of the goods until some later date, e.g., until the price is paid or some conditions are fulfilled. The seller may do so by reserving his right of disposal.
 - ❖ Where the seller has reserved his right of disposal, the ownership of the goods is not transferred to the buyer even if the goods are delivered to the buyer or some carrier for the purpose of transmission to the buyer. The ownership is

transferred to the buyer only when the conditions imposed by the seller are fulfilled

- ❖ In the following two circumstances the seller is presumed to have reserved the right of disposal :
 1. By taking the documents showing title in his own name or his agent's name
 2. By sending the bill of exchange for the price, to the buyer, along with the documents of title
- ❖ **Example:**

8. **Transfer of risk**

- ❖ The risk and the ownership of the goods go together.
- ❖ In other words, the goods are at the risk of the party who has the ownership of the goods. This means that in case of loss of the goods, the loss shall be borne by the party who has the ownership of the goods at the time of loss.
- ❖ **Exceptions:**

In these exceptional circumstances, the goods may be at the risk of one party and their ownership may be with the other:

 1. **Agreement between the parties:**

The terms of agreement between the parties may provide as to when the ownership shall be transferred and who shall suffer the loss.
 2. **Goods are at the risk of the party in default:**

Sometimes, the delivery of the goods is delayed due to the fault of either seller or buyer. In such cases, the goods shall be at the risk of the party in default though their ownership is with the other party.
 3. **Trade customs :**

The risk and the ownership may also be separated by the trade customs e.g., the trade custom may provide that the goods shall be at the risk of the buyer whether or not the ownership has been transferred to him.

9. **Transfer of title by non-owners**

- ❖ "Nemo dat quod non-habet": This means that 'no one can transfer a better title than he himself has'. Thus, the buyer cannot get a better title than that of the seller. If the seller's own title is defective, the buyer's title will also be defective.
- ❖ **Example:**

❖ **Exceptions:**

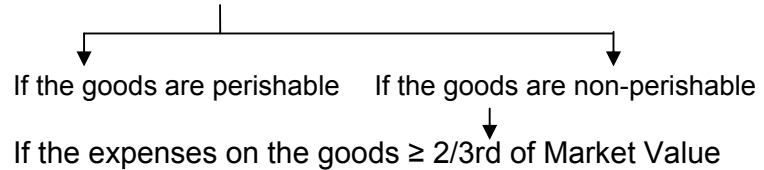
In the following exceptional circumstances a non-owner can transfer a valid title to a bonafide buyer:

1) Sale by a mercantile agent

A 'mercantile agent' is an agent who deals in the buying and selling of the goods on behalf of his principal, e.g., an auctioneer. Where a mercantile agent sells goods in the ordinary course of his business, the buyer who buys in good faith, gets a valid title to the goods even if he (the mercantile agent) is not the owner of the goods.

2) Sale by a joint owner: When the joint owner is in the sole possession of the goods, and he sells them to a person who buys in a good faith, the buyer gets a valid title to the goods.**Example:****3) Sale by estoppel:** When the owner of goods, by his conduct or by statement, wilfully leads the buyer to believe that the seller has the authority to sell, then he is estopped (i.e., prevented) from denying the seller's authority to sell**Example:****4) Sale by unpaid seller:** To be done in Unit 4**5) Sale by a seller in possession of goods after their sale:** If the seller continues to have the possession of the goods even after their sale and if he resells the same goods to a new buyer then in such cases, the second buyer gets a valid title to the goods if he buys them in a good faith.**Example:****6) Sale by a buyer in possession of goods after their sale:** If the buyer obtains the possession of the goods which he has bought or agreed to buy from the seller and the seller still has some lien or other rights over the goods. If the buyer resells the same goods to a new person. In such cases, the second buyer gets a valid title free.**Example:**

7) Sale by a finder of goods:



8) Sale by a person in possession under a voidable contract: The buyer gets a valid title only if the following conditions are satisfied:-

- a. A person must obtain the possession of the goods by coercion, undue influence, fraud or misrepresentation.
- b. The seller must have obtained the possession of the goods under a voidable contract and not under a void contract.
- c. The contract must not have been rescinded (i.e., put to an end) at the time of sale
- d. The buyer must act in a good faith.

Example:

9) Sale Under the Provision of Other Acts :

- a. Sale by an Official Receiver or Liquidator of the Company will give a valid title to the purchaser.
- b. Sale by a pawnee/pledgee under default of pawnor in repayment of debt will give valid title to the purchaser.

❖ **In case of hire-purchase, hirer cannot pass a good title even to a bonafide buyer.**

• **DELIVERY OF GOODS**

A. Meaning:

- ❖ “Delivery” means a voluntary transfer of possession from one person to another”.
- ❖ Delivery of goods may be actual, symbolic or constructive

B. Rules:

1. Buyer in position to access the goods:

The delivery of the goods may be made in any of the modes, but it must have the effect of putting the goods in the possession of the buyer or his agent.

2. Demand for delivery of goods:

It is seller's duty to put the goods in deliverable state and inform the buyer regarding same. It is buyer's duty to make a demand for the delivery of the goods.

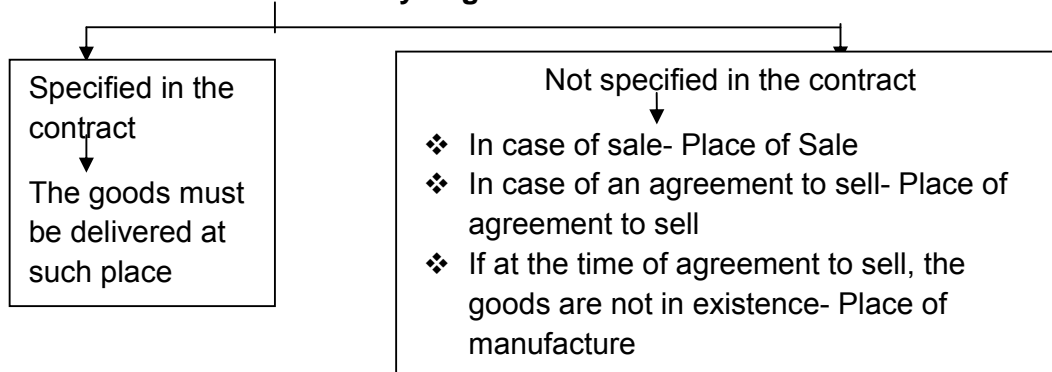
3. Goods in the possession of a third person:

Sometimes, at the time of sale, the goods are in the possession of a third person. In such cases, the effective delivery takes place when such person acknowledges to (i.e., inform) the buyer, that he holds the goods on his (buyer's) behalf.

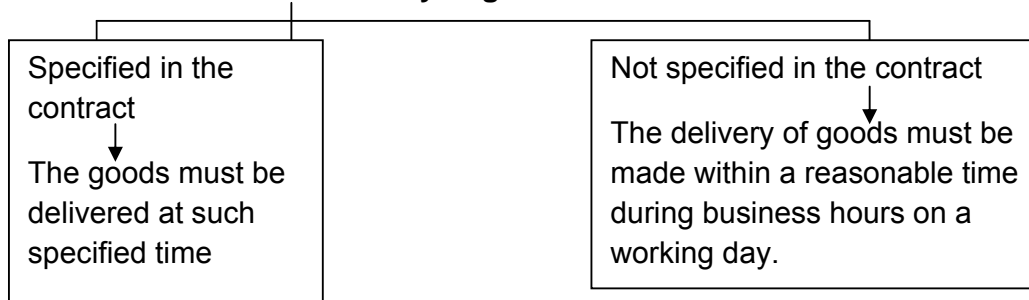
4. Delivery to a carrier or wharfinger:

Where the sold goods are delivered to a carrier/wharfinger for the purpose of transmission to the buyer or safe custody, the delivery of goods to the carrier/wharfinger is treated as a delivery to the buyer

5. Place for the delivery of goods:



6. Time for the delivery of goods:



7. Time for demand or tender of delivery:

The demand of delivery by the buyer must be made within reasonable time during business hours and on a working day.

8. Expenses for the delivery of goods:

The expenses of putting the goods into a deliverable state are borne by the seller. And the expenses of receiving the goods are borne by the buyer. However, the seller and the buyer may also agree otherwise

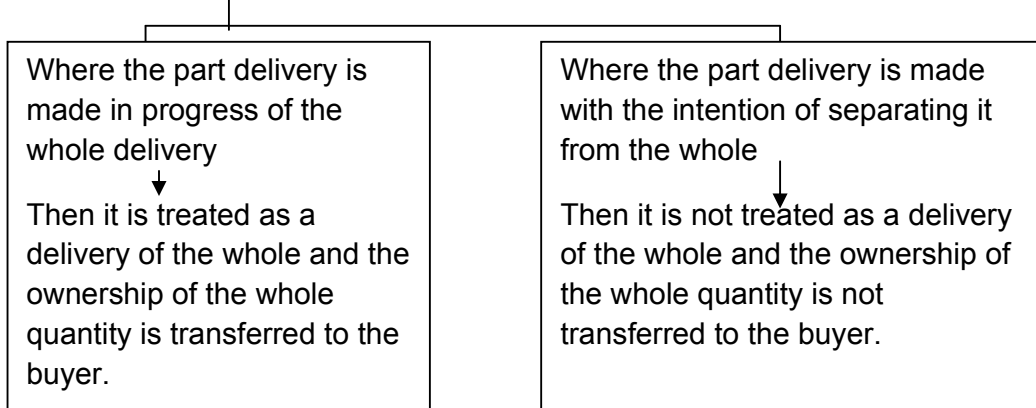
9. Deterioration of goods during transit:

The buyer shall bear the loss of deterioration of goods which is incidental i.e. natural in transit unless otherwise agreed.

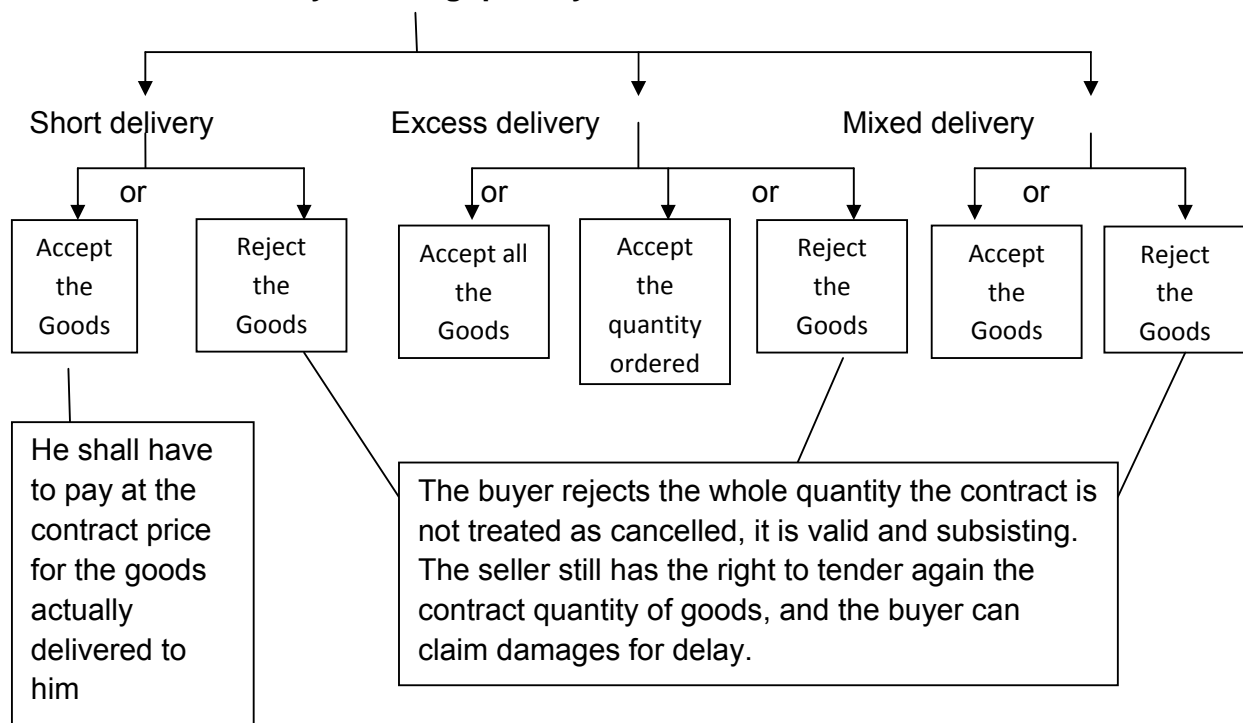
10. Delivery of goods by instalments:

As a rule, the delivery of goods by instalments is not considered as a good delivery and the buyer is not bound to accept the goods delivered to him by instalments, unless otherwise agreed.

11. Part delivery of goods:



12. Delivery of wrong quantity:



• **ACCEPTANCE OF DELIVERY OF GOODS**

Acceptance is deemed to take place when the buyer-

- (a) Intimates to the seller that he had accepted the goods; or
- (b) Does any act to the goods, which is inconsistent with the ownership of the seller; or
- (c) Retains the goods after the lapse of a reasonable time, without intimating to the seller that he has rejected them.

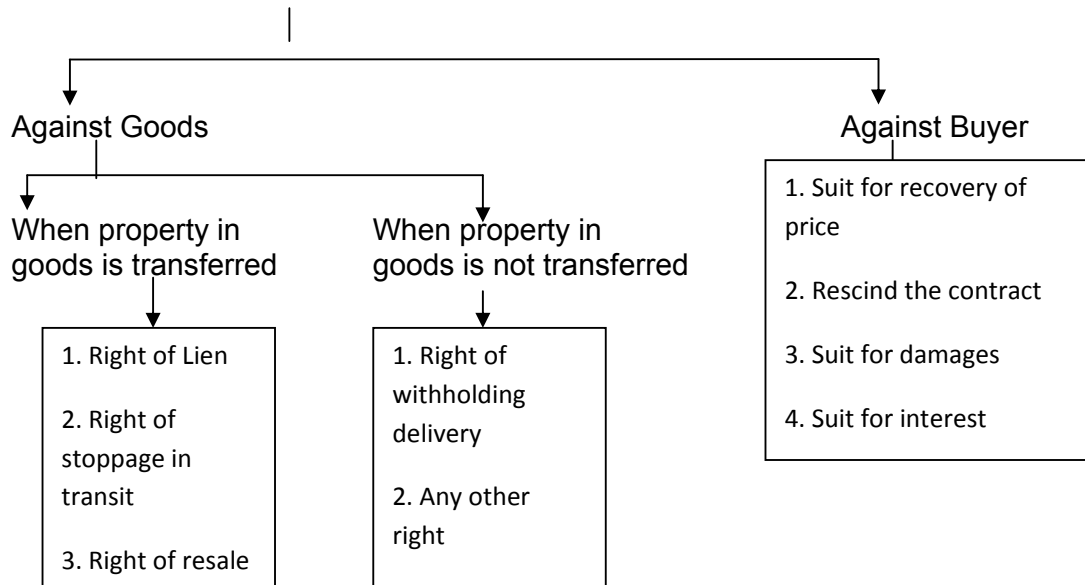
UNIT 4 : UNPAID SELLER

• **MEANING OF UNPAID SELLER:**

A seller will be called 'unpaid' if the following conditions are fulfilled:

- (1) The whole or part of the price has not been paid or tendered and that the seller has immediate right of action for the price.
- (2) A bill of exchange or other negotiable instrument has been received but the same has been dishonoured.

• **RIGHTS OF UNPAID SELLER**



(A) Rights against the Goods:

1. **Where the ownership of the goods has transferred to the buyer: In this case, the unpaid seller has the following rights:**

(a) Right of lien

- ❖ The right of lien is the right to **retain possession** of the goods.
- ❖ This right can be exercised only when the possession of goods is with the seller.
- ❖ The unpaid seller of goods can retain his possession of goods until payment of the price in following cases:
 - a) Where the goods are not sold on credit.
 - b) Where the goods have been sold on credit, but the term of credit has expired
 - c) Where the buyer becomes insolvent.
- ❖ The unpaid seller can retain the goods only for the payment of the price of the goods: He cannot retain the goods for any other charges, e.g., maintenance, charges for storage of goods during the exercise of lien etc.
- ❖ The right of lien is indivisible in nature.
- ❖ Termination of Lien:
 - a) By delivery of goods to the carrier
 - b) By delivery of goods to the buyer
 - c) By waiver of the lien
 - d) By payment of price by the buyer

❖ **Example:**

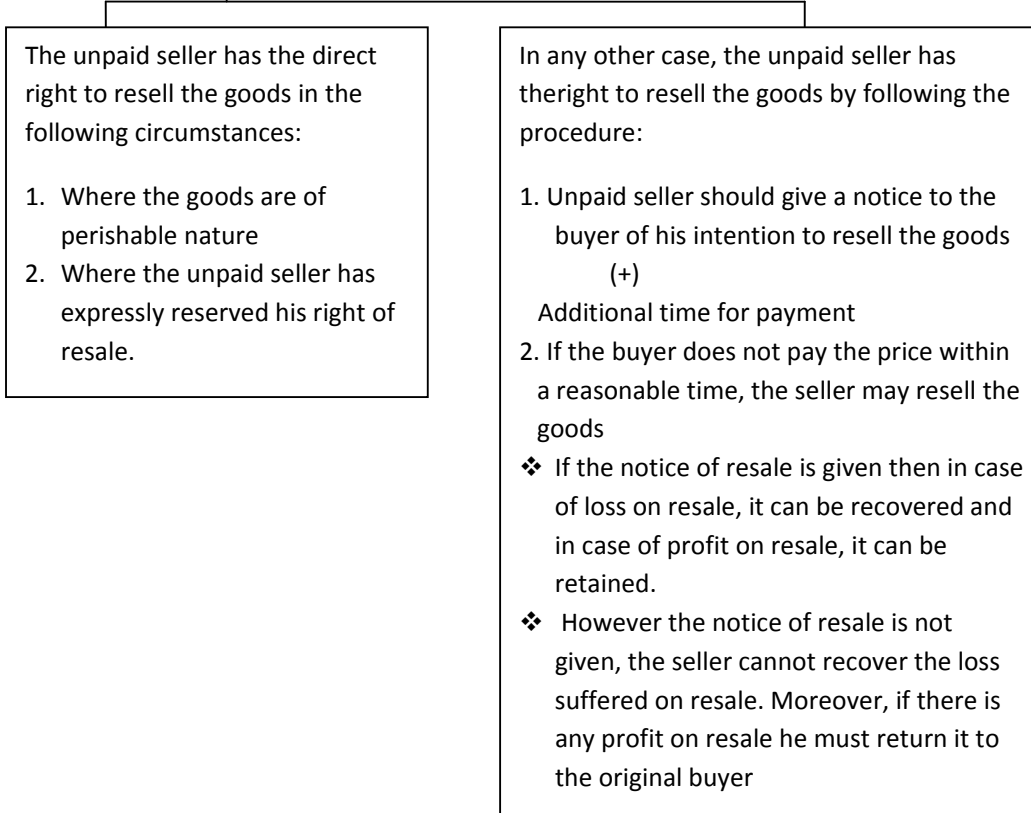
(b) Right of stoppage in transit

- ❖ The right of stoppage in transit is the right to **regain possession** of the goods.
- ❖ This right can be exercised only when,
 - (i) Seller should have parted with the possession
 - (ii) Possession should be with a carrier, &
 - (iii) Buyer has not acquired the possession.
- ❖ The right of stoppage in transit can be exercised only if the buyer has become insolvent.
- ❖ The unpaid seller can stop the goods in transit only for the payment of the price of the goods.
- ❖ Distinction between Right of Lien and Right of Stoppage in transit

Right of Lien	Right of stoppage in transit
1. The essence of a right of lien is to retain possession	1. The essence of stoppage in transit is to regain possession
2. Seller should be in possession of goods under lien	2. In stoppage in transit, (i) seller should have parted with the possession (ii) possession should be with a carrier, & (iii) buyer has not acquired the possession.
3. Right of lien can be exercised even when the buyer is not insolvent.	3. Right of stoppage in transit can be exercised only when buyer becomes insolvent
4. Right of lien precedes right of stoppage in transit.	4. Right of stoppage in transit begins when the right of lien ends

❖ **Example:**

(c) Right of Resale



2. Where the ownership of the goods has not been transferred to the buyer:

(a) Right of Withholding Delivery

When the ownership of the goods sold is not transferred to the buyer, if the buyer fails to pay the price, the unpaid seller may refuse to deliver the goods to the buyer. Such right is known as right of withholding the delivery of the goods.

(b) Any other right

Since ownership and possession of goods is with the seller, seller can use, gift, resell the goods, etc.

(B) Rights against the Buyer

1. Suit for recovery of price

Where the buyer takes the ownership as well as possession of goods and the buyer fails to pay the price of the goods, the seller can file a suit against the buyer for recovery of the price.

2. Suit for damages for repudiation of the contract before the due date of delivery of goods :

Where the buyer repudiates (i.e., puts an end to) the contract before the due date of delivery of the goods, the seller has the following options:

- (i) He may not immediately take any action against the buyer, and treat the contract as subsisting and wait till the date of delivery of goods.
- (ii) He may immediately treat the contract as repudiated and bring a legal action against the buyer for the recovery of damages. Thus, the option of bringing the action lies with the seller. He may either wait till

the date of delivery of goods arrives, or bring an immediate action for damages.

3. Suit for damages

Where the seller is ready and willing to deliver the goods to the buyer, but the buyer wrongfully neglects or refuses to accept the goods and pay for them, then the seller may bring a legal action against the buyer for the recovery of damages suffered due to non-acceptance of the goods.

4. Suit for interest

The court may award the interest from the date of tender of the goods or from the date when the price is payable. The rate of interest to be awarded is at the discretion of the court.

• **EFFECTS OF SUB-SALE OR PLEDGE BY BUYER**

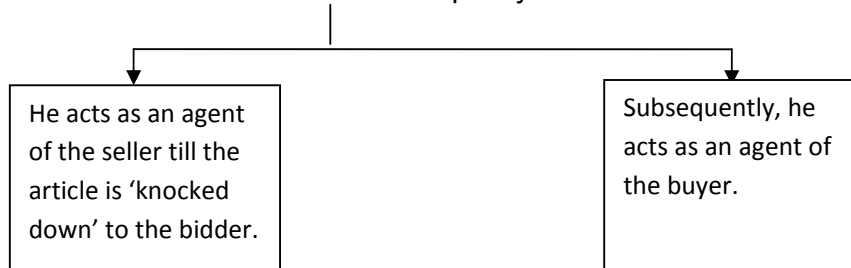
- ❖ The right of lien or stoppage in transit is not affected by the buyer selling or pledging the goods unless the seller has assented to it.
- ❖ Exceptions:
 - (a) When the seller has assented to the sale, mortgage or other disposition of the goods made by the buyer.
 - (b) When a document showing title to goods has been transferred to the buyer and the buyer transfers the documents to a person who has bought goods in good faith and for value.
- ❖ **Example:**

• **RIGHTS OF PARTIES IN BREACH OF CONTRACT**



• **AUCTION SALES**

- ❖ An auction sale is a sale at which the auctioneer, as agent for the seller, invites persons present to bid for goods sold.
- ❖ Auctioneer acts in a dual capacity



- ❖ Rules regarding Auction Sales:
 1. Where goods are put up for sale in lots, they are deemed to be sold in lots.
 2. The sale is complete and ownership is transferred when the auctioneer announces its completion by the fall of the hammer or in any other customary manner.
 3. Bidder may retract his bid anytime before auction sale is complete.
 4. The sale may be notified to be subject to a 'reserve price' or 'upset price.' When the sale is notified to be subject to a 'reserve price', the bidding and knocking down of the article to the highest bidder are all subject to the condition that the 'reserve price' should be reached.
 5. If the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.
 6. A right to bid may be 'reserved' expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any other person on his behalf, may bid at the auction.
 7. Implied warranties in auction sale: In an auction sale, the auctioneer warrants the following :
 1. that he has an authority to sell;
 2. that he is not aware of any defect in the title of the principal;
 3. that he undertakes to handover the quite possession of the goods as soon as the price is paid to him.

SUMMARY

UNIT 1: Formation of contract of sale

- **INTRODUCTION**

- ✓ It came into force on the 1st of July, 1930.
- ✓ It is applicable to whole of India except Jammu & Kashmir.
- ✓ The Law relating to this statute was contained in Indian Contract Act, 1872.
- ✓ Where the Sale of Goods Act is silent on any point, the general principles of the law of contract apply.

- **CONTRACT OF SALE**



- **DEFINITIONS**

1. Buyer
2. Seller
3. Goods
4. Price
5. Property
6. Documents showing Title to Goods/ Documents of Title to Goods
7. Mercantile Agent
8. Delivery

- **ESSENTIAL ELEMENTS OF A VALID CONTRACT OF SALE**

- **DISTINGUISH BETWEEN**

1. Sale and agreement to sell
2. Sale and hire- purchase
3. Sale and bailment
4. Sale and contract for work and labour

- **FORMATION AND MODES OF A CONTRACT OF SALE**

- **EFFECT OF DESTRUCTION OF GOODS**

- **PRICE AND MODES OF FIXING THE PRICE**

UNIT 2: CONDITIONS AND WARRANTIES

- **CONDITION**

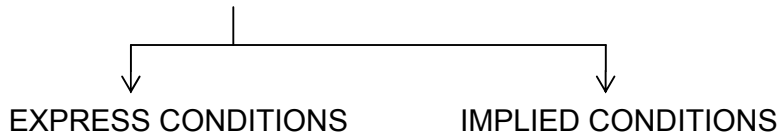
“A condition is a stipulation essential to the main purpose of the contract

- **WARRANTY**

“A warranty is a stipulation collateral to the main purpose of the contract

- **WHEN A CONDITION CAN BE TREATED AS A WARRANTY**

- **CONDITIONS**

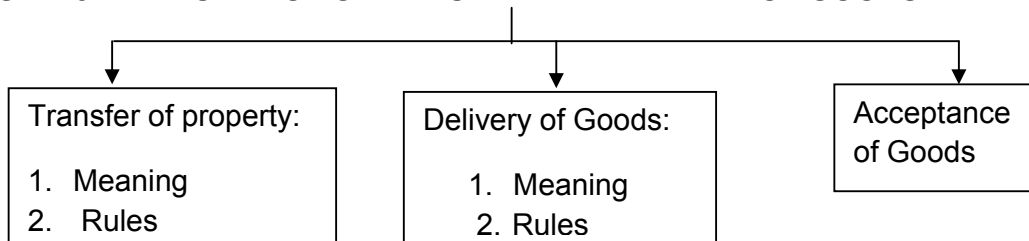


- **WARRANTIES :**



- **THE DOCTRINE OF CAVEAT EMPTOR (BUYER BEWARE)**

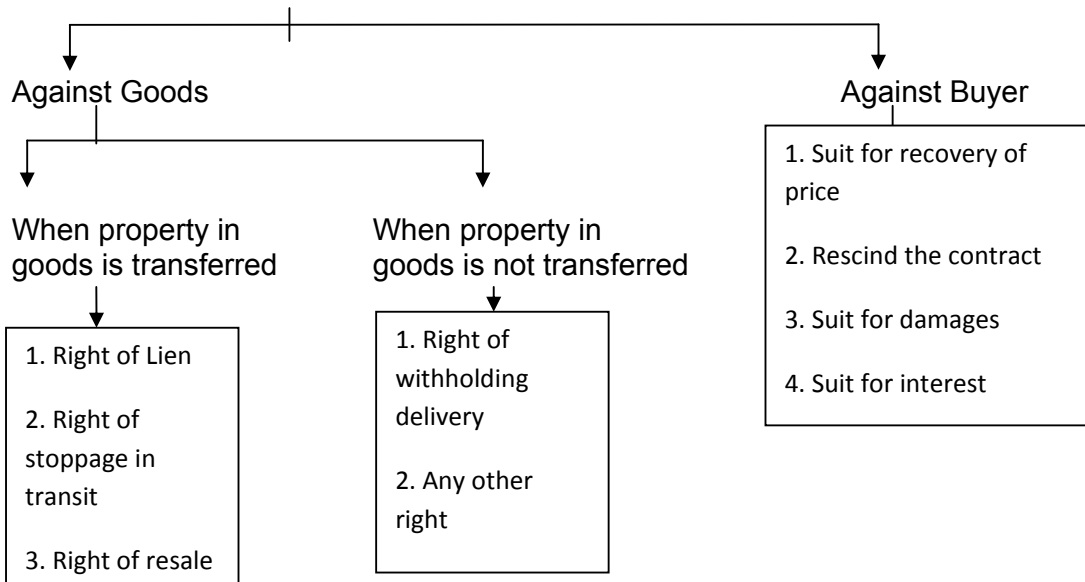
UNIT 3: TRANSFER OF OWNERSHIP AND DELIVERY OF GOODS



UNIT 4 : UNPAID SELLER

- **MEANING OF UNPAID SELLER**

- **RIGHTS OF UNPAID SELLER**



- **EFFECTS OF SUB-SALE OR PLEDGE BY BUYER**

- **RIGHTS OF PARTIES IN BREACH OF CONTRACT**

-

- **AUCTION SALES**

MULTIPLE CHOICE QUESTIONS**PART A : CLASSWORK****CATEGORY : A**

- Q. 1.** The Sale of Goods Act, 1930 deals with
- (a) Bailment (b) Credit Sales
(c) Hire Purchase Sales (d) Sale of Goods in general
- Q. 2.** Antique coins is goods under the Sale of Goods Act. Is it correct?
- (a) Yes (b) No (c) Partly Yes (d) None of the above
- Q. 3.** _____ Means the money consideration for a sale of goods.
- (a) Price (b) Revenue (c) Cost (d) Value
- Q. 4.** Which of the following is correct?
- (a) A contract of sale includes sale and not an agreement to sell.
(b) When price of goods is paid other than in money, it is not a sale.
(c) When price of goods is paid partly in cash and partly in goods, it is a sale.
(d) Both (b) and (c) above
- Q. 5.** Under the Sale of Goods Act, "Property in Goods" means
- (a) the specific property in goods (b) the general property in goods
(c) Both (a) and (b) (d) Neither (a) nor (b)
- Q. 6.** The general rule is that the Buyer of goods is responsible for his choice or selection. This doctrine is called
- (a) Ignorantia juris non excusat (b) Nemo dat quad non habet
(c) Quid Pro Quo (d) Caveat Emptor
- Q. 7.** The Seller of Goods is Unpaid Seller when cheque has been received but
- (a) Not deposited with bank (b) dishonored by bank
(c) deposited with bank (d) none of the above

- Q. 8.** According to the Sale of Goods Act, 1930 'Buyer' is a person who
- (a) Buys or agrees to buy goods
 - (b) Buys goods
 - (c) Agrees to buy goods
 - (d) None of the above
- Q. 9.** Which of the 2 are correct
- (a) Sale and Agreement to sell are the same,
 - (b) Sale and Agreement to sell are different
 - (c) Both (a) and (b)
 - (d) Either (a) and (b)
- Q. 10.** Sec.10 of the Sale of Goods Act, 1930 deals with fixation of price of goods by
- (a) The Judge
 - (b) The Arbitrator
 - (c) The Central Government
 - (d) The valuation of a third party
- Q. 11.** As per Sale of Goods Act, a warranty is a stipulation
- (a) breach of which gives rise to a right to repudiate the contract
 - (b) which is collateral to the main purpose of the contract
 - (c) breach of which gives rise to a right to claim damages
 - (d) both (b) and (c) above
- Q. 12.** A stipulation which is essential to the main purpose of the contract, and if proves false, give the buyer a right to terminate the contract, is legally known as
- (a) condition
 - (b) guarantee
 - (c) warranty
 - (d) none of these
- Q. 13.** Breach of a warranty gives a right to
- (a) Reject the goods
 - (b) Treat the contract as repudiated
 - (c) Claim new goods
 - (d) Claim damages but not a right to reject the goods and treat the contract as repudiated.
- Q. 14.** In a contract of sale of goods
- (a) there are implied conditions and warranties
 - (b) there may be express conditions and warranties
 - (c) these are only implied conditions and no implied warranties
 - (d) both (a) and (b) above
- Q. 15.** Which of the following condition is implied in a contract of sale of goods?
- (a) Condition as to sale by description
 - (b) Condition as to sale by sample
 - (c) Condition as to title
 - (d) All of the above

- Q. 16.** In case of sale of goods by sample as well as by description, the goods should correspond with
- (a) The sample (b) The description
(c) Either (a) or (b) (d) Both (a) and (b)
- Q. 17.** In case of sale by description, there is an implied that the goods shall Correspond to description
- (a) Condition (b) Warranty (c) Stipulation (d) Description
- Q. 18.** In the case of eatables or foodstuffs and provisions in addition to the implied condition that the goods shall be _____.
- (a) Presentable (b) Wholesome
(c) Merchantable (d) None of the above
- Q. 19.** Transfer of ownership in. Hire purchase is only after payment of
- (a) all agreed installments (b) 51% payment
(c) ownership changes in proportion to payment (d) None of the above
- Q. 20.** Exceptions to the Doctrine of Caveat Emptor are
- (a) Fitness for buyers purpose (b) Merchantable Quality
(c) As per the samples if the sale is by samples (d) All of the above.
- Q. 21.** Implied warranties include
- (a) Warranty as to quiet possession
(b) Warranty of freedom from encumbrances
(c) Warranty as to quality or fitness for a particular purpose annexed by usage of trade
(d) all of the above
- Q. 22.** Match the List-I and List-II and select the correct answer from the codes given below the list :
- | List-I | List-II |
|--|-------------------------|
| A. Stipulation which is collateral to the main purpose of contract of sale | 1. condition |
| B. The goods which can be sold at full market value. | 2. warranty |
| c. Buyer should be careful and should not take chances. | 3. merchantable quality |
| D Stipulation which is essential for the main purpose of the contract emptor | 4. caveat emptor |
- Codes :**
- (a) A(1) B(3) C(2) D(4) (b) A(2) B(3) C(1) D(4)
(c) A(2) B(3) C(4) D(1) (d) A(3) B(2) C(1) D(4)
- Q. 23.** The property in the goods means the
- (a) Possession of goods (b) Custody of goods
(c) Ownership of goods (d) both (a) and (b)

- Q. 24.** The goods are at the risk of a party who has the
- (a) Ownership of goods
 - (b) Possession of goods
 - (c) Custody of goods
 - (d) both (b) and (c)
- Q. 25.** Under Sec. 27 of the Sale of Goods Act, 1930, sale by a mercantile agent is valid when. The mercantile agent
- (a) Has possession of the goods with the consent of the owner
 - (b) Sells the goods acting as a mercantile agent
 - (c) Acts in his usual course of business
 - (d) All of the above
- Q. 26.** Delivery of goods means _____ physical possession of goods from one person (seller of goods) to another (buyer goods)
- (a) voluntary transfer
 - (b) compulsory transfer
 - (c) transfer without consideration
 - (d) transfer is exchange of some other good
- Q. 27.** The following non-owners of goods can transfer a better title than they themselves have
- (a) a mercantile agent and a seller having possession of goods sold
 - (b) an unpaid seller having possession of goods sold
 - (c) a person having possession of goods under a void contract
 - (d) persons under (a) and (b).
- Q. 28.** Wrong delivery does not mean
- (a) Short Delivery
 - (b) Excess Delivery
 - (c) No Delivery
 - (d) Delivery of contracted goods mixed with other goods
- Q. 29.** In case of Excess Delivery, a buyer is at liberty to
- (a) Accept the whole
 - (b) Reject the whole
 - (c) Accept the quantity he ordered and reject the rest
 - (d) Do whatever he likes out of the above
- Q. 30.** Where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had this is known as
- (a) nemo dat quad non habet
 - (b) Caveat emptor
 - (c) Risk Prima facie passes
 - (d) None of the above

Q. 31. Goods should be

- (a) delivered to sellers place
- (b) delivered to the place of business of buyer
- (c) delivered at the place at which they are at the time of sale
- (d) none of the above

Q. 32. The risk and property in goods

- (a) depends on possession
- (b) depends on payment made
- (c) depends on delivery
- (d) go together

Q. 33. Where the goods at the time of sale are in the possession of a third person, there is no delivery by the seller to the buyer unless and until _____ acknowledges to the buyer that he holds the goods on his behalf.

- (a) such third person
- (b) seller
- (c) agent of seller
- (d) buyer

Q. 34. Goods are delivered by doing something which has the effect of putting the goods in the possession of the intended bailee, but not physically is type of which delivery

- (a) Symbolic delivery
- (b) Actual delivery
- (c) Constructive delivery
- (d) None of the above

Q. 35. A contracts to sell to B all the oil to be produced from groundnut harvested from A's farm. The crops having been harvested and oil made there from, A fills the oil in cans supplied by B. Does the property in oil pass to B?

- (a) No goods are in not a deliverable state
- (b) Yes goods are in a deliverable state
- (c) No B has not taken the delivery
- (d) None of the above

Q. 36. Where under the contract of sale, the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is

- (a) not bound to send them within a months time
- (b) bound to send them within a reasonable time
- (c) bound to send them within a six months time
- (d) bound to send them within a years time

Q. 37. A seller is an unpaid seller

- (a) when only a part of the price has been paid
- (b) when a cheque has been issued and the payment of the same is stopped
- (c) when whole of the price has not been tendered
- (d) any one of the above

Q. 38. In which of the following cases, the unpaid seller loses his right of lien?

- (a) delivery of goods to buyer
- (b) delivery of goods to carrier
- (c) tender of price by buyer
- (d) all the these

Q. 39. When property in goods has not passed to the buyer, the unpaid seller has a right of

- (a) Withholding delivery
- (b) Stoppage in transit
- (c) (a) and (b)
- (d) (a) or (b)

Q. 40. An unpaid seller can exercise right of lien for the payment of _____.

- (a) price
- (b) price and expenses
- (c) expenses
- (d) price and other costs

Q. 41. The unpaid seller can exercise the right to re-sale the goods.

- (a) When goods are of Perishable Nature
- (b) Where he gives notice to the buyer of his intention to re-sale goods
- (c) Where he expressly reserves the right to re-sale in case the buyer makes default
- (d) Any of the above

Q. 42. The right of lien is available to the Unpaid Seller, only when -

- (a) Seller is not in possession of the goods
- (b) Seller is in possession of the goods
- (c) Seller delivered the goods to the Carrier / Transporter
- (d) Seller has delivered the goods to the Buyer

Q. 43. Which of the following rights can not be exercised by an Unpaid Seller when the property in goods has passed to the Buyer :

- (a) Right to Lien
- (b) Right to Re-sale
- (c) Right to Stoppage of goods in transit
- (d) Right of withholding delivery of goods

Q. 44. In case of breach of contract, rights of buyer against unpaid seller include

- (a) Suit for compensation for non - delivery
- (b) Suit for the non - performance as per the terms of contract
- (c) Suit for interest for breach of contract
- (d) All of the above

CATEGORY : B

- Q. 45.** Under the sale of Goods Act, "Existing Goods" means
- (a) Goods which are already manufactured before contract made
 - (b) Goods which are to be manufactured after making the Contract of Sale
 - (c) Goods which are in existence
 - (d) Goods which come into being upon happening of a contingency
- Q. 46.** A, a farmer, agrees to sell B, mangoes, provided there is good rain during season. The goods are
- (a) Future Goods
 - (b) Ascertained Goods
 - (c) Unascertained Goods
 - (d) Contingent Goods
- Q. 47.** A agrees to sell B, all crops to be grown in his farm during 2011 season. In this case, the goods are
- (a) Future Goods
 - (b) Specific goods
 - (c) Unascertained Goods
 - (d) Contingent Goods
- Q. 48.** Where money is exchanged by one person for some money with another person, the transaction is known as
- (a) Barter
 - (b) Exchange
 - (c) Money sale
 - (d) None of the above
- Q. 49.** An Agreement to Sell in respect of goods creates
- (a) a jus in personam
 - (b) a jus in rem
 - (c) both (a) and (b)
 - (d) neither (a) nor (b)
- Q. 50.** If third party is prevented from fixing price by the fault of the Seller or Buyer, the party not in fault may _____.
- (a) maintain a suit for damages against the party in fault
 - (b) make the valuation of damages by himself
 - (c) maintain a suit for damages against the valuer
 - (d) Either (b) or (c) which ever is higher
- Q. 51.** A told B, a car dealer, that he wanted to purchase a car suitable for touring purposes', B suggested that a 'Bugatti' car would be fit for the purpose. Relying upon his statement, A bought a 'Bugatti car which turned out to be unfit for touring purposes. Here A
- (a) Can reject the car and have the refund of the price
 - (b) He can claim damages only
 - (c) Can neither reject the car nor claim any damages
 - (d) Can reject the car and have half refund of price

Q. 52. Which of the following statement is incorrect in relation to 'sale on approval'?

- (a) The seller cannot ask for the return of the goods sold
- (b) The seller cannot recover the price if the goods are returned within a reasonable time
- (c) The seller can recover the price if the goods are not returned within a reasonable time
- (d) The ownership of goods is transferred to the buyer if he fails to return the goods within fixed time

Q. 53. Where Goods are delivered to the Buyer, it is the duty of the Seller to

- (a) give a reasonable opportunity to the Buyer for examining the goods
- (b) examine the goods on behalf of the Buyer
- (c) Issue a quality certificate in respect of the goods
- (d) all of the above

Q. 54. In case of stoppage in transit, goods are deemed to be in course of transit

- (a) from the time when they are delivered to a carrier
- (b) until the buyer or his agent takes delivery of the goods from such carrier
- (c) both (a) and (b)
- (d) neither (a) and (b)

Q. 55. In a contract of sale of goods there must be

- (a) Restricted transfer of property in goods
- (b) Transfer of general property in goods
- (c) Limited transfer of property in goods
- (d) None of the above

Q. 56. A contract for the sale of goods which provide that the property would pass to the buyer on full payment of price and execution of sale deed, is known as

- (a) Sale
- (b) Agreement to sell
- (c) Hire-purchase Agreement
- (d) Sale of approval

Q. 57. Under Sec. 8 of the Sale of Goods Act, 1930, a contract of sale of goods can be avoided where the goods have perished due to

- (a) The fault of the seller
- (b) The fault of the buyer
- (c) The fault of either the buyer or the seller
- (d) The fault neither of the buyer nor the seller

Q. 58. In case of sale of goods

- (a) possession of goods must be transferred to the buyer
- (b) special property in the goods must be transferred to the buyer
- (c) general property in the goods must be transferred to the buyer
- (d) both (a) and (b)

Q. 59. In an agreement to sell the property (ownership) in the goods passes

- (a) immediately
- (b) at a future date
- (c) either immediately or at a future date
- (d) never

Q. 60. In a Contract of Sale the property in goods is transferred in

- (a) Present
- (b) Past
- (c) Future
- (d) There is no transfer of property at all

Q. 61. Consideration in _____ passes from both parties to each other

- (a) Sale
- (b) Gift
- (c) Transfer
- (d) Payment

Q. 62. The term "Contingent Goods" refers to -

- (a) Goods which are not capable of identification
- (b) Goods, the acquisition of which by the Seller depends upon a contingency
- (c) Goods which may or may not be bought by the Buyer
- (d) Goods which may or may not be sold

Q. 63. Law of equity does not apply in

- (a) Gift
- (b) Sale
- (c) Both a and b
- (d) None of the above

Q. 64. _____ may or may not pass between bailee and bailor

- (a) Consideration
- (b) Ownership
- (c) Both a and b
- (d) none of the above

Q. 65. X was shopping in a self-service super market. He picked up a bottle of mango squash from a shelf. While he was examining it, the bottle exploded in hand and injured him. Can X claim damages for the injury?

- (a) X cannot claim damages
- (b) X can claim damages
- (c) X has to pay price for the bottle
- (d) None of the above

Q. 66. Which of the following statements are correct

- (i) in case of sale, the subject matter of contract exists at the time of sale
- (ii) the term goods does not include shares
- (iii) in a contract of sale, the price may be paid partly in cash and partly in goods valued in terms of money.
- (iv) a contract of sale must be in writing.

Options :

- (a) 1 & 2 (b) 2 & 3 (c) 2 & 4 (d) 1 & 3

Q. 67. The doctrine of caveat emptor shall apply when the

- (a) Goods are purchased under their brand name
- (b) Goods have been examined by the buyer
- (c) Both (a) and (b)
- (d) Either (a) or (b)

Q. 68. The implied condition that goods shall be fit for buyer's specific purpose, is applicable only where the buyer tells his purpose to the seller and relies upon seller's skill and judgment.

- (a) Yes as it is the requirement of law
- (b) No as it is buyer's duty to select goods which serve his purpose
- (c) No, as it not the requirement of law
- (d) Yes, as it is required under certain condition

Q. 69. In a contract of Sale of Goods, there is

- (a) no implied condition as to merchantable quality of goods where goods are bought by description
- (b) generally no implied condition as to quality or fitness for any particular purpose of goods
- (c) an implied condition as to the quality or fitness of goods for any particular purpose of goods
- (d) (a) and (b)

Q. 70. In a contract of sale of goods, the implied condition is

- (a) that the seller has right to sell at the time of sale
- (b) that the goods shall correspond with the description
- (c) that the goods shall be fit to the buyer's purpose
- (d) both (a) and (b) above.

Q. 71. In a contract of sale of goods, the implied condition as to fitness of buyer's purpose applies.

- (a) in all the cases
- (b) in the case where the buyer tells his purpose to the seller
- (c) in the case where the buyer relies on seller's skill or judgement to select the goods for his purpose.
- (d) in the cases of both (b) and (c) simultaneously

- Q. 72.** In a contract of sale of goods, implied condition as to merchantability of goods applies where goods are sold by .
- (a) Sample (b) Description
(c) Sample and description (d) Junk dealer
- Q. 73.** If the goods are not in accordance with the description of goods as given in the contract, the Buyer is entitled to reject the goods irrespective of whether the property in goods has passed to the Buyer or not-
- (a) True (b) Partly True
(c) False (c) None of the above
- Q. 74.** In a sale of goods by description, it is sufficient that the goods are
- (a) Fit for the purpose for which they were wanted though not in accordance to description
(b) Merchantable though not in accordance to description
(c) Wholesome, even if they do not correspond to description
(d) The same as that of their description
- Q. 75.** In which condition the buyer is not deemed to have accepted the goods
- (a) when he intimates to the seller that he has accepted them
(b) where goods are delivered to the buyer and he refuse to accept them, having the right so to do, he is does not return them to the seller, but intimates to the seller that he refuses to accept them
(c) when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller
(d) when, after the lapse of reasonable time he retains the goods without intimating to the seller that he has rejected the goods
- Q. 76.** X agrees to supply to Y a certain quantity of timber of half-inch thickness. The timber actually supplied varies in thickness from one third inch to five-eighth inch. The timber is merchantable and commercially fit for the purpose for which it was ordered. Y rejects the timber. Is his action justified?
- (a) Yes, Y is entitled to reject the goods
(b) No, Y is not entitled to reject the goods
(c) Y can claim the damages if purpose is not solved after using the timber
(d) X can ask for the difference amount
- Q. 77.** Y agrees to buy from X 250 bags of sugar by sample. The sugar delivered to Y who pays the price. Y on examination of the sugar discovers that it is not equal to sample. Y afterwards uses two bags and sells one. He wants to return the remaining bags. Can he do so?
- (a) No — sale by sample (b) No — X never knew himself
(c) No — Y should not have used it (d) None of the above

- Q. 78.** X purchased from a retailer two underpants manufactured by R & Co. After wearing one of them, rashes developed on this skin. The rashes were caused by a chemical irritant which the manufacturer had failed to remove in the process of manufacture. X sued the manufacture for damages. Will he succeed?
- (a) Yes — conditions as to merchantability
 - (b) No — he has not purchased from manufacturer
 - (c) No — he should have testified it first
 - (d) No — retailer should have informed him
- Q. 79.** X purchased a cow from Y, who died on the next day. For this loss can X from Y
- (a) Recover the loss
 - (b) Cannot recover the loss
 - (c) Can recover a part of the loss
 - (d) None of these
- Q. 80.** Under Sec. 19 of the Sale of Goods Act, 1930, the property in goods passes to the buyer
- (a) On delivery of goods
 - (b) When the parties intend the property in goods to pass
 - (c) When the payment of price is made
 - (d) When the contract is made
- Q. 81.** In case if contract of sale of specific goods which are yet to be put into deliverable state, the property in the goods passes to the buyer.
- (a) when contract is made
 - (b) when parties intend
 - (c) when goods are brought to deliverable state
 - (d) when goods are brought to deliverable state and buyer has the notice of it.
- Q. 82.** Appropriation of goods to the contract means
- (a) separating the goods sold from other goods
 - (b) by putting the goods sold in suitable places
 - (c) delivering the goods to the carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal
 - (d) either (a) or (b) or (c)
- Q. 83.** When there is an unconditional contract the sale of specific goods in a deliverable state, the property in goods passes to the Buyer, when the
- (a) Price is paid
 - (b) Parties intend.
 - (c) Contract is made
 - (d) Goods are delivered

- Q. 84.** The purpose of weighing, measuring or counting of goods under Sec. 22 is to ascertain the
- (a) Price of the goods
 - (b) Time of delivery of goods
 - (c) Mode of delivery of goods
 - (d) Description of goods
- Q. 85.** Even after appropriation of goods to the contract, the seller is deemed to have reserved the right of disposal of the goods
- (a) when goods are delivered along with a bill of exchange
 - (b) when documents of title is in name of seller / his agent
 - (c) when the goods are delivered to the buyer unconditionally
 - (d) as per point (a) and (b)
- Q. 86.** Is the buyer bound to accept the delivery of goods in instalments?
- (a) the buyer has an option to reject the goods
 - (b) the buyer has ordered so he has to take it
 - (c) he can't accept the goods
 - (d) none of the above
- Q. 87.** The property in unascertained goods passes to the buyer
- (a) when goods are unconditionally appropriated with the consent of other party
 - (b) when goods appropriated are of the same description as given in the contract
 - (c) when the goods are in a deliverable state
 - (d) when all the above conditions are satisfied
- Q. 88.** Rules for valid delivery of goods includes
- (a) Payment and delivery of goods should be concurrent
 - (b) Buyer should apply for delivery of goods
 - (c) Expenses of delivery to be born by the seller of goods.
 - (d) All of the above
- Q. 89.** A person who has possession of goods, cannot sell the
- (a) if the is a mercantile agent
 - (b) if he possesses goods under voidable contract and the aggrieved party has rescinded the contract
 - (c) if he is a servant having custody to the goods
 - (d) both (b) and (c)
- Q. 90.** In case of contract of sale of specific goods in a deliverable state but seller is to do something for the purpose of ascertaining the price, the property in the goods passes to the buyer
- (a) when the seller has done all that is required for ascertaining the price
 - (b) when the seller as well as buyer have done everything for ascertaining the price
 - (c) When buyer takes delivery of the goods
 - (d) both (b) and (c)

- Q. 91.** In respect of _____ Goods, the property in the goods is transferred to the Buyer at such time as the parties intend it to be transferred
- (a) Specific or Ascertained (b) Future
(c) Unascertained (d) Contingent
- Q. 92.** Under the Sale of Goods Act, an unpaid seller is one who has not been paid
- (a) part of the price (b) substantial price has not been paid
(c) whole of the price (d) any one of the above
- Q. 93.** Which of the following statements are incorrect?
1. An unpaid seller who is in possession of goods sold, can exercise the right of lien even when the property has passed to the buyer.
 2. The right of lien by an unpaid seller can be exercised for the non - payment of price of goods and other charges
 3. Right of lien and Right of Stoppage of goods in transit may be exercised simultaneously by an unpaid seller.
 4. An unpaid seller can exercise the right of stoppage of goods in transit if the buyer becomes insolvent.
- Options :**
- (a) (i) & (ii) (b) (ii) & (iii) (c) (i) & (iv) (d) (iii) & (iv)
- Q. 94.** The notice of stopping the goods in transit can be given to
- (a) Either (b) or (c) or (d) (b) The agent of the carrier
(c) The principal carrier (d) The person in actual possession of goods
- Q. 95.** Where property in goods has not passed to the Buyer and the Unpaid Seller exercises his right of withholding delivery of goods, such Unpaid Seller.
- (a) Should supply goods to Buyer in full
(b) Can exercise his other remedies also
(c) Does not have any other remedy under the Act
(d) Should supply defective goods to the Buyer
- Q. 96.** Unpaid Seller can exercise his right of lien -
- (a) Even when property in goods has passed to the Buyer
(b) Only when property in goods has not passed to the Buyer
(c) Either (a) or (b)
(d) Both (a) and (b)
- Q. 97.** A seller is not an unpaid seller when _____.
- (a) he sells the goods on credit and the term of credit has not expired
(b) he refuses to accept valid tender of price
(c) buyer has validly rejected the goods
(d) in anyone of the above

CATEGORY : C

- Q. 98.** Where there is an agreement to sell specific goods, and subsequently, the goods without any fault of either party, perish or become so damaged as no longer to answer to their description in the agreement, before the risk passes to the Buyer
- (a) the agreement is thereby avoided (b) the agreement is invalid
(c) the agreement is illegal (d) the agreement is contingent
- Q. 99.** In case of conflict between the express conditions and the implied conditions, which one of them shall prevail ?
- (a) Implied conditions (b) Express conditions
(c) Neither of them (d) New terms imposed by court
- Q.100.** A purchased a hot water bottle from Chemist. The Bottle burst and injured his wife. The Chemist is liable on account of
- (a) breach of express condition as to quality
(b) breach of implied condition as to quality
(c) personal injury caused to the Buyer's wife
(d) breach of implied warranty as to quality
- Q.101.** Where the contract is for the sale of indivisible lot of specific goods, and only a part of the goods is destroyed, the whole contract _____ .
- (a) becomes void (b) is valid for remaining part
(c) becomes illegal (d) becomes voidable
- Q.102.** Identify the incorrect statement in case of Sale by Mercantile Agent to give good title to Buyer?
- (a) Mercantile agent is in possession of goods with consent of the owner
(b) The mercantile agent sells those Goods in the ordinary course of business
(c) The Buyer buys them in good faith and for value
(d) The Buyer has notice at the time of contract, that the Seller has no authority to sell
- Q.103.** In case of sale, where no place for delivery of goods is specified in the contract, the goods sold are to be delivered at the place
- (a) of buyer's choice (b) at which they are at the time of sale
(c) of seller's choice (d) at which goods manufactured
- Q.104.** In the case of cash sales, seller is unpaid when
- (a) Buyer refuse to pay cash at the time of taking delivery of goods
(b) Buyer refuse to pay cash before taking delivery of goods
(c) either (a) or (b) (d) neither (a) nor (b)

- Q.105.**In case of re-sale of goods by an Unpaid Seller, the Original Buyer is entitled to any profit which may occur on the resale
- (a) only when notice of intention to resale, is given
 - (b) only when notice of intention to resale, is not given
 - (c) either (a) or (b)
 - (d) neither (a) nor (b)
- Q.106.**Where the Buyer wrongfully refuse to accept and pay for goods, the Seller may sue him for
- (a) payment of price of goods
 - (b) damages for non-acceptance of goods
 - (c) payment of other expenses
 - (d) all of the above
- Q.107.**Which of the following statement is incorrect?
- (a) 'earnest money' is liable to be forfeited
 - (b) 'part payment' cannot be forfeited
 - (c) Both of the above
 - (d) None of the above
- Q.108.**The Buyer gets a good title of the goods even if it is made by a non-owner, when the sale is made
- (a) by a pawnee subject to Contract Act
 - (b) by an official assignee
 - (c) by a finder of goods subject to Contract Act
 - (d) All of the above
- Q.109.**Risk of loss on insolvency of the buyer is borne by _____
- (a) the seller
 - (b) the buyer
 - (c) insurance company
 - (d) All of the above
- Q.110.**Where the third party is prevented from making valuation of goods as to their price by a party to the contract, the other party has a right to
- (a) Sue for specific performance
 - (b) Sue for damages
 - (c) Both (a) and (b)
 - (d) Either (a) or (b)
- Q.111.**Which of these is NOT a valid sale?
- (a) Sale by one part owner of a property, to another part owner, for renouncing his right
 - (b) Sale made by the Firm to any of its Partners
 - (c) Sale made by a Partner to the Firm
 - (d) Distribution of goods upon Partners upon dissolution of Firm
- Q.112.**The distinction between sale and agreement to sell determines
- (a) Nature of goods in the contract
 - (b) Nature of property in the contract
 - (c) Price of the contract
 - (d) Rights and liabilities of the parties to the contract

- Q.113.**In case of an agreement to sell, if the Seller becomes insolvent after the Buyer has paid the price, the Buyer can claim
- (a) The goods from Official Receiver of the Seller
 - (b) A rateable dividend for price paid
 - (c) Either (a) or (b)
 - (d) Sue the Official Receiver for refund of entire price paid
- Q.114.**Whether a given contract is one of sale or some other kind of contract, in respect of goods, is a matter of
- (a) Terminology
 - (b) Law
 - (c) Agreement
 - (d) All of the above
- Q.115.**An agreement of hire-purchase includes the agreement of
- (a) sale and agreement to sell
 - (b) bailment of goods for hire and agreement to sell
 - (c) sale and bailment for hire
 - (d) above (a) and (c)
- Q.116.**Where by a contract of sale, the seller purports to effect a _____, the contract operates as an agreement to sell
- (a) Future sale of existing goods
 - (b) Present sale of existing goods
 - (c) Future sale of future goods
 - (d) Present sale of future goods
- Q.117.**Condition and warranty are different as to
- (a) Value
 - (b) Breach
 - (c) Treatment
 - (d) All of the these
- Q.118.**An implied condition as to fitness of goods for a particular purpose provided u/s 16, where the buyer relies on his own judgment
- (a) Is applicable
 - (b) Is not applicable
 - (c) Is presumed
 - (d) Exists
- Q.119.**In a contract of sale, ordinarily there is _____ as to the quality or fitness for any purpose of goods
- (a) An implied warranty or condition
 - (b) An express warranty or condition
 - (c) No implied warranty or condition
 - (d) No express warranty or condition
- Q.120.**Which of the following statements are correct
1. Breach of warranty can be treated as breach of condition.
 2. Condition as to wholesomeness of goods applies to eatables.
 3. In a contract of sale of goods, there is always implied condition as to quality or fitness of goods for any particular purpose.
 4. In an agreement to sell the goods, there is an implied condition the seller will have a right to sell the goods at the time when the property in the goods is to pass.

Codes:

- (a) 1 & 2
- (b) 2 & 4
- (c) 1 & 3
- (d) 3 & 4

- Q.121.** In commercial contracts, stipulation as to time of payment is
- (a) Usually of essence of the contract
 - (b) Usually not the essence of the contract
 - (c) Never of essence of the contract
 - (d) None of the above
- Q.122.** Condition or Warranty in a contract of sale, constitute stipulation with reference to
- (a) Price
 - (b) Time
 - (c) Goods
 - (d) Delivery
- Q.123.** In a contract of sale, there is
- (a) an implied warranty as to quality or fitness of goods for a particular purpose if annexed by the usage of trade
 - (b) no implied warranty that the goods shall be free from any charge or encumbrance is favour of any third party
 - (c) no implied condition as to quality or fitness of goods for a particular purpose.
 - (d) above (a) and (b)
- Q.124.** Implied condition that the goods are of merchantable quality, is lost where the buyer has actually examined the goods. This is applicable in respect of defects which are :
- (a) Which are pointed out by a Third Party
 - (b) Which arise subsequent to delivery of goods
 - (c) Latent (those which cannot be identified on mere examination of goods)
 - (d) Patent (those which such examination ought to have revealed)
- Q.125.** An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith. This statement is
- (a) True
 - (b) False
 - (c) Partly True
 - (d) Partly False
- Q.126.** Where price is not already ascertained, the proposed _____ in passes to the Buyer when the Seller does everything for the purposes of ascertaining the price and the buyer has notice thereof
- (a) Specific goods in a deliverable state
 - (b) Specific goods to be put in a deliverable state
 - (c) Specific goods in a non-deliverable state
 - (d) Unascertained goods
- Q.127.** There was a contract to supply "waste coal and ash for the next six months, as and when the waste is generated by the Seller's Factory". The Buyer paid the lump-sum price for the next six months in advance. When does the property in the goods pass to the Buyer?
- (a) After the lapse of six months period
 - (b) At the time of entering into the contract
 - (c) At the time of paying advance money
 - (d) As and when the Factory discharges the waste
- Q.128.** In a contract through sea, where the seller has to put the goods on board a ship at his own expenses, the contract is known as
- (a) F.O.B. Contract
 - (b) C.I.F. Contract
 - (c) Ex-ship Contract
 - (d) None of these

- Q.129.** In a contract through sea, where the seller has to deliver the goods to the buyer at the port of destination, the contract is known as
- (a) F.O.B. Contract (b) C.I.F. Contract
(c) Ex - ship Contract (d) None of these
- Q.130.** Which of the following statements are 'correct'
- (i) In the absence of any contract to the contrary, delivery of goods and payment of the price are not concurrent conditions,
(ii) When goods are delivered at a distance place, the liability for deterioration necessarily incidental to the course of transit will fall on the seller.
(iii) If goods are validly rejected, the buyer need not return the goods.
(iv) Delivery of wrong quantity of goods entitles the buyer to reject codes the whole lot.
- (a) (i) & (iii) (b) (ii) & (iii) (c) (i) & (iv) (d) (i) & (ii)
- Q.131.** In the event of insolvency of either buyer or seller, the question whether the Official Receiver or Assignee can take over the goods or otherwise depends upon whether the
- (a) possession in goods has been passed from the seller to the buyer or not
(b) property in goods has been passed from the seller to the buyer or not
(c) bill of goods
- Q.132.** In a sale, if the buyer pays the price of goods purchased and goods are in the possession of the seller and thereafter the seller becomes insolvent, the buyer
- (a) cannot claim the goods from the Official Receiver and Assignee
(b) can claim the goods from the Official Receiver and Assignee
(c) buyer will cancel the contract of sale
(d) seller is not liable
- Q.133.** Where the goods are to be acquired by the seller after acquiring
- (a) his duty ends which he acquire the goods
(b) his duty ends when he delivers the goods to the buyer
(c) his duty ends when he gives notice of the same to the buyer
(d) none of the above
- Q.134.** Which of the following is not included in the term Unpaid Seller?
- (a) A Consignor or an agent who has himself paid, or is directly responsible for the price
(b) Any person who is in the position of a Seller
(c) Buyer's agent to whom the Bill of Lading is endorsed
(d) Seller's agent to whom the goods have been delivered
- Q.135.** Where the goods have been delivered to a Carrier but the document of title is obtained in the Seller's name or that of his agent ; i.e. Seller has reserved the right of disposal
- (a) Goods are deemed to be in the possession of the Buyer
(b) Goods are deemed to be in the possession of the Seller
(c) Goods are deemed to be in the possession of the Carrier
(d) Goods are deemed to be in the possession of the Insurer