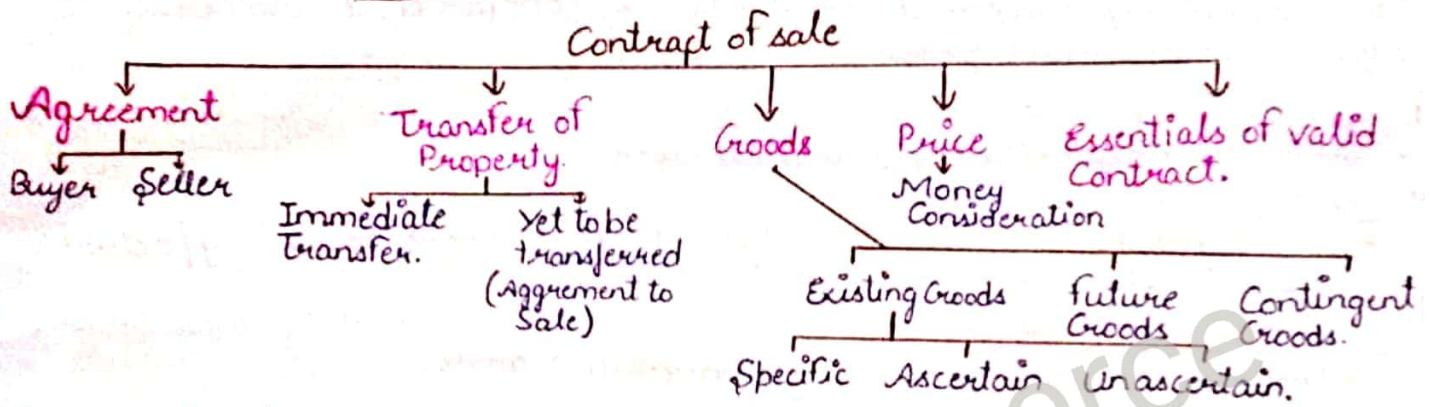


# SALES OF GOODS ACT, 1930.

The sales of Goods Act is an imp. law for consumers because it provides many rights and authority.

## Unit 1. Overview



- These contracts are governed by SGA, 1930 which was part of ICA, 1872.
- It extends to whole of India (J&K forced after removing article 317)

### 1. Buyer [Section 2(1)]

A person who buys or agrees to buy goods is seller buyer.

### 2. Seller [Section 2(13)]

A person who sells or agree to sell goods is seller.

### 3. Goods & Other Related terms [Section 2(7)]

It means every kind of movable property other than actionable claims & more

#### • Excludes

- ↳ Money
- ↳ Immovable Property
- ↳ Actionable Claim (Except FDR)
  - ↳ BOE, Promissory Notes (Negotiable instrument Act)

#### • Includes

- ↳ Old Rare antique Coins
- ↳ All movable property
- ↳ Stock / Shares / FDRs (176 of ICA)
- ↳ Water / Gas / Electricity
- ↳ Goodwill, Patent, Trademark
- ↳ Growing crops, grass & things attached to or forming part of land.

Actionable → Claims enforced only by actions / claims.

### i) Existing Goods → [Section 6]

- Owned / Possessed by seller at the time of contract of sales.
- Exist at the time of contract of sale.

#### a) ↳ Specific Goods : [Section 2(14)]

- Goods identified & agreed upon at time of contract of sale.

#### b) ↳ Ascertained Goods :

- Goods are identified in accordance with agreement of sale is made.

#### c) ↳ Unascertained Goods :-

These are indicated or defined only by description / sample.



ii) Future Goods → [Section 2(i)]  
Goods produced/acquired by seller after making contract of sale.

iii) Contingent Goods → [Section 6(2)]  
The acquisition of which by seller depends upon an uncertain contingency (uncertain event)  
are called Contingent goods.  
• It is agreement to sale but not sale.

4. Delivery [Section 2(2)]  
• It is voluntary transfer of possession from one person to another.  
• Effects on possession of goods.

i) Actual Delivery →  
• Goods are physically transferred to buyer.

ii) Constructive Delivery →  
• When ownership is transferred without change in change in custody/actual possession by acknowledgement.

iii) Symbolic Delivery →  
• Transfer of token representing ownership of goods.

Goods are said to be in deliverable state when they are in such a condition that the buyer would be bound to take delivery of them. [Section 2(3)]

5. Document of Title of goods → [Section 2(4)]

• It is a proof of the possession of/control of goods.  
• Represents ownership of goods.  
Example → BOE, Bearer Cheque, Bills of lading.

Document showing Title →

• Only shows names of owner.  
• Possession does not show ownership.  
Example → A/c Payee, Cheque, Share Certificate.

6. Mercantile Agent → [Section 2(9)]

It means an agent having in the customary course of business as such agent authority to sell goods. Ex: Auctioneer, Broker

7. Property → [Section 2(11)]

ownership | General Property

8. Insolvent [Section 2(18)]

When person is ceases to pay his debts in ordinary course of action.

9. Price [Section 2(10)]

Money Consideration.

10. Quality of Goods. [Section 2(12)]

State or Condition of goods.



# Sales & Agreement to Sell (Section 4)

A contract of sales of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to buyer for a price. [Section 4(1)]

A contract of sales may be absolute or conditional. [Section 4(2)]

## i) Agreement to Sale → [Section 4(3)]

Where seller agrees to transfer property in goods at a future time or some conditions.

An agreement to sell becomes a sale when <sup>time period finishes</sup> time elapses/conditions are fulfilled subject to which the property in goods is to be transferred. [Section 4(4)]

## ii) Sale and Hire Purchase → (transfer provision)

• Hire purchase are governed by Hire-purchase Act, 1972.

It is an agreement under which goods are let on hire & hirer has an option to purchase them in accordance with terms of agreement.

## iii) Sale & Bailment →

Bailment refers to delivery of goods with some specific purpose under contract that same goods to be returned to bailer or as per directions of bailer.

• Provisions related to bailment are regulated by ICA, 1872.

## iv) Sale & Contract for work & labour →

When goods are left after complete sales, there is only the doing/rendering of some work of labour, then the contract is only for work & labour & not sales of goods.

# Contract of Sale How Made (Section 5)

• Offer <sup>accept</sup> → to buy/sell <sup>purchase</sup> → at price → Goods → Acceptance → Payment & Delivery  
Immediate / future / installment. [Section 5(1)]

• Contract of sale can be written/oral or both.

## Subject Matter of Contract of Sale Exist

• It discloses details about existing & future goods or Contingent goods.

## Goods Perished before making of contract

• Contract is void if goods are perished before  
• Perished / Damaged / Not same as description.

**Essentials of Valid Contract of Sale.**

- There must be two parties
- Subject matter of contract must be necessarily in goods. (movable goods)
- Price in money (not in kind)
- Transfer of ownership from Seller to Buyer.
- Contract of Sale can be absolute or Conditional (Sec 4(2))
- All other essentials of valid contract must present.

Note → (Read)  
Sale & Hire purchase  
Bailment  
Contract for work & labour.

## Goods perishing before sale but after agreement to sale [Section 8]

It can be avoidable if goods are perished or become so damaged that can't be identified at the time of sale.

Good in faith ⇒ जब वही चीजों के गुण बेच रहा है और अ Buyer को फिर-बद वो हीने है तो Good in faith होता है।



## Ascertainment of Price [Section 9] (Both parties of contract)

Price should be fixed at the time of making contract.  
If not fixed then, buyer shall pay reasonable price.

- i) Fixed by contract
- ii) Agreed to fix in a manner provided by contract.
- iii) Courses of dealing b/w parties.

## Agreement to sale at valuation: - [Section 10] (By third party)

- Sale is made by valuation by third party.
- If third party unable to do valuation, contract is void.
- If third party is prevented from fixing price by default of either party, then party at fault will be liable to pay damages.

@beingcommerce

Guarantee - Refuse  
Warrent - Refuse, Cause

Contract of Sale How to

about sale of goods to contract to sell to

# Unit-2 Warranty & Conditions.

## Stipulation as to time :- (Section 11)

Time is a most essential element in any contract of sale, but not time of payment unless otherwise mentioned. In general, Time of Delivery is essence of contract of sale.

## Conditions And Warranty :- (Section 12)

- 12(2) "A condition is a stipulation essential main purpose of contract, breach of which gives rise to right to treat contract as repudiated."
- 12(3) "A warranty is a stipulation collateral to main purpose of contract, breach of which gives rise to claim damages but not to right to reject goods & treat contract as repudiated."

(Self Contract) ← **Conditions** → Only 1 part

Breach - Claim for damages  
**Warranty** (Secondary contract)

- |  |   |
|--|---|
| • A condition is stipulation essential to main purpose of contract.                            | • It is only collateral to main purpose of contract.  |
| • Aggrieved party can repudiated contract or claim damages or both.                            | • Aggrieved party can claim damages   |
| • A breach of condition may be treated as a breach of warranty.<br>(Condition can be warranty) | • A breach of warranty cannot be treated as a breach of condition.<br>(Warranty can't be condition) |

## When Conditions to be treated as Warranty. (Section 13)

13(1) "When a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive or elect to treat the breach of conditions as a breach of warranty and not as a ground for treating the contract as repudiated."

- 1) Contract can't be rescinded even if there is no breach of conditions.
- 2) Where buyer waives performance of condition (for his benefit) waiver stipulation.
- 3) When contract is treated as warranty. he can claim damages instead of repudiated contract.

• When contract is non-severable & buyer has accepted either whole goods or any part thereof. Summary of 13(2)

• Where the fulfillment of any condition or warranty is excused by law. Summary of 13(3)

### Waivers of Conditions.

Voluntary (Waiver) ← (13(1))

- Waives performance of contract
- Elect to treat warranty as warranty.

→ Compulsory Waiver

- Non-severability of contract. 13(2)
- Fulfillment of conditions excused by law. 13(3)



# Express & Implied Conditions & Warranty (Section 14-17)

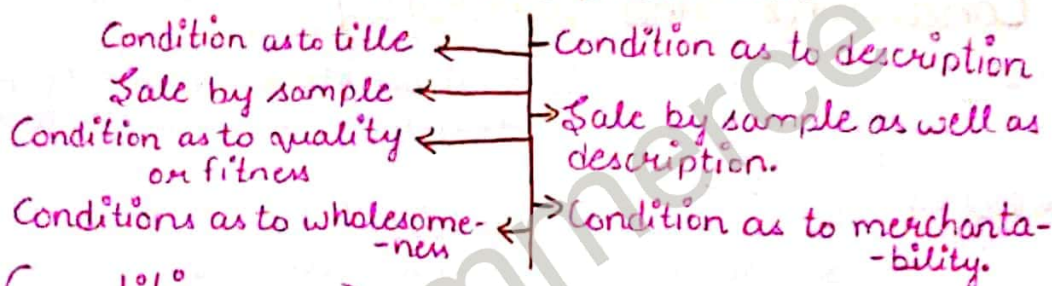
## Types of conditions & Warranty

### Express

Where it is clearly mentioned in terms & conditions of contract

### Implied

Where certain norms are followed even though they are not clearly mentioned in contract.



## 1. Implied Condition. →

1. Condition as to title <sup>14(a)</sup> → In every contract of sale, it is implied conditions that seller selling goods:-

- i) has right to sell goods.
- ii). In agreement to sell, he will have right to sell goods at the time property is to pass.

2. Sale by description <sup>(Section 15)</sup> → This rule is based on principle that "if you contract is to sell peas, you cannot compel to buy beans" which means goods must correspond to description by which goods are sold.

3. Sale by Sample <sup>(Section 17)</sup> → Goods must corresponds to sample if buyer bought goods after considering sample.

4. Sale by Sample as well as description <sup>(Section 15)</sup> → Where goods are sold by sample as well as description, implied condition is that bulk must correspond sample as well as description.

5. Conditions as to Quality or fitness <sup>Section 16(1)</sup> → This implied condition says goods must be of reasonable quality & fit for the purpose it is brought by buyer, if he had made known to seller purpose of his purchase and relied upon his skills & judgement.

6. Condition as to merchantability <sup>Section 16(2)</sup> → Where goods are bought by description from seller dealing in goods of that description, implied conditions is that goods must be merchantable quality. <sup>→ salable good</sup>

7. Condition as to wholesome → In case of eatables, in addition to implied condition as to merchantability, there is another implied condition that goods must be wholesome.



## Implied Warranty →

- 1) Warranty as to undisturbed possession → Section 14(b)
  - An implied warranty that the buyer shall have and enjoys quiet possession of goods.
- 2) Warranty as to Non-existence of encumbrances → Section 14(c)
  - An implied warranty that goods shall be free from any charges or encumbrances in favour of any third party not declared at time of contract.
- 3) Warranty as to Quality or fitness by usage of trade → Section 16(3)
  - An implied warranty as to quality or fitness for a particular purpose may be amended or attached by usage of trade.
- 4) Disclosure of Dangerous Nature of Goods →  
Where goods are dangerous in nature and buyer is ignorant of danger, seller must warn buyer of probable danger.

## Caveat Emptor → (Section 16)

"Let the buyer beware"

It is the duty of buyer to satisfy himself before buying goods that goods will serve the purpose for which they are being bought.

## Exceptions to Rule of Caveat Emptor →

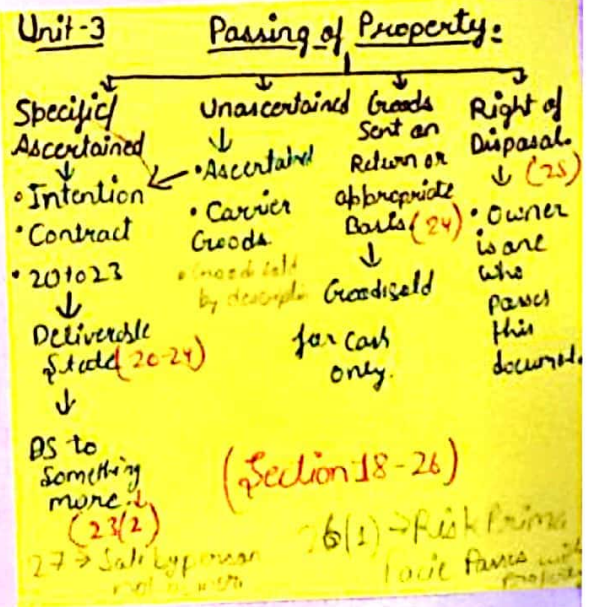
- 1) Fitness as to Quality or Use → Section 16(1)  
Where buyer makes seller know the purpose of buying goods & seller is dealing with such goods and buyer relies on seller's skill & judgment than caveat emptor shall not apply.  
(Case law - Priest vs Last.  
Bombay Burma trading Cooperation Ltd vs Aga Mohammed.)
- 2) Goods Purchased under Patent or Brand Name → Section 16(1)  
In case goods are purchased under patent name or brand name, there is no obligation of seller but brand owner shall be liable for quality issues.
- 3) Goods sold by description → (Section 15)  
Where goods are sold by description, they must correspond with description if not seller will be responsible.
- 4) Goods of Merchantability Quality → Section 16(2)  
Where goods are bought by description from seller who deals with goods of such description, there is implied condition that goods must be merchantable and caveat emptor shall not apply.
- 5) Sale by sample → Section 17  
Where goods are bought by sample they must correspond to bulk, if not caveat emptor shall not apply.



6. Goods sold by sample as well as description → Section 15  
 Rule of caveat Emptor shall not apply if goods does not corresponds to sample as well as description.
7. Trade Usage → Section 16(3)  
 If seller deviates from implied condition or warranty of trade usage rule of caveat emptor shall not apply.
8. Seller actively casuals a defect or is guilty of fraud. →  
 If seller is making some misrepresentation or fraud & buyer relies on it and found fraud, than Caveat Emptor shall not apply.

@beingcommerce

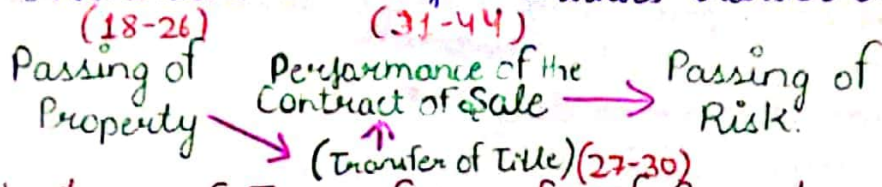
Acc. to Section 26, unless otherwise agreed, goods remain at the seller's risk until property therein is transferred to buyer.  
 • As property transferred to buyer, the goods are at buyer's risk.





# Unit 3 Overview

- A contract of sale of goods involves transfer of ownership in three stages:



## 1. Importance of Time of transfer of Property →

- Risk Prima Facia passes with property.
- If goods are lost or damaged, so will be buyer such damages.
- If goods are damaged by act of third party
- Seller can only sue for price after passing

### Section 18.

a) Identification of Goods → It provides that there is a contract of sale for unascertained goods, the property in goods can't pass to the buyer unless & until goods are ascertained.

### b) Intentions of Party.

19(1) → The property in goods is transferred to buyer at such time as parties to contract intend it to be transferred.

19(2) → Purpose of ascertaining the intention of parties.

- To terms of contract.
- To conduct of parties.
- To circumstances of case.

## 2. Passing of Property → (Section 18-26)

Primarily, Passing of Property from seller types of goods based on that it is determined

### Passing of Property.

#### Specific/Ascertained (Sections 19)

- Intend of Buyer/Seller (Section 19)
- Terms & Conditions of contract

Specific goods in deliverable state. (Section 20)

Put to deliverable state. (Section 21)

#### Risk Prima (Facia) Passes with Property →

Section 26. → It explains goods shall remain seller's property unless ownership transfers to buyers, goods are now at buyer's wish.

However, if delivery of goods are delayed by buyer or seller's fault, loss will be bounded by party at fault.

## 3. Section 27 → Sale by Person, not the owner →

"Nemo Dat Quod Non Habet" (Latin para)

It means no one can give what he has not got.

- This rule says only owner can sale or transfer property (ownership) of goods, therefore, in certain cases a non-owner can also pass valid title of goods.



## 1. Sale by merchantile agent → (Proviso to Section 27)

- A merchantile Agent shall pass valid title of goods in following circumstances:-
  - if he is in possession of goods or documents.
  - sale is made in ordinary course of buisness.
  - Buyer had acted in good faith.

## 2. Sale by Joint Owners → Section 28.

- If one of the joint owners of goods has sale possession with permission of co-owners, they can pass valid title to Bonafide Buyer.

## 3. Sale by person in possession under voidable contract → Section 29.

- Buyer shall get valid title of goods from seller who have drained goods by coercion, undue influence, fraud or misinterpretation provided that such contract is not rescinded until this sale. (CUM)

## 4. Sale by a person who have already sold goods but continues in Possession. → Section 30(1)

- If a person sold goods & continues in possession of goods, sold them to another person, who obtains goods in good faith than subsequent sale is valid.

@beingcommerce

## 5. Sale by buyer obtaining possession before property in goods has vested in him. → Section 30(2)

- Where buyer with consent of seller sell goods to third party without getting property in goods, shall pass valid title to third party. (Consent of Seller & Buyer)

## 6. Effect of Estoppel →

Where seller sells goods to buyer in front of owners, representing himself owner & true owner didn't deny & buyer buys goods in good faith.

## 7. Sale by Unpaid Seller → Section 54(3)

Where unpaid seller exercised right of lien or resale goods, they pass valid title to buyer.

## 8. Sale under provision of other acts →

- Sale by official Receiver | Liquidator
- Fider of goods § Section 169 of ICA 1872
- Sale by pawnee § Section 176 of ICA 1872

pawnee → to whom collateral are tied



## 4. Performance of the contract of Sale. (31-44)

### • Delivery. Section 2(2)

Voluntary transfer of possession from one person to another.

### • Duties of Buyer & Seller. Section 31

Seller → Deliver goods

Buyer → Accept goods & make payment.

### • Payment & Delivery are concurrent conditions. Section 32.

→ The seller shall be ready & willing to give possession of goods to buyer in exchange of price.

→ The buyer shall be ready & willing to pay the price in exchange for the possession of the goods.

### • Rules regarding Delivery of goods. (Section 33-41)

#### i) Delivery → Section 33.

→ Delivery of goods sold may be made by doing an act which is to be treated as delivery.

→ Effect of putting the goods in the possession of buyer is to hold them on his behalf.

#### ii) Part Delivery → Section 34.

→ If goods are delivered in parts, it is assumed that the goods may vary with intention.

#### iii) Buyer to apply for Delivery → Section 35

→ Apart from any express contract, the seller of goods is not bound to deliver until the buyer applies for delivery.

#### iv) Place of Delivery → Section 36(1)

→ As decided by contract between buyer & seller, else place of agreement.

#### v) Time of Delivery → Section 36(2)

→ As per contract else reasonable time.

#### vi) Goods in possession of a third party → Section 36(3)

→ No delivery unless such person acknowledge to buyer.

#### vii) Time for tender of delivery → Section 36(4)

→ Demand of Delivery is ineffective unless made in reasonable hour.

#### viii) Expenses of Delivery → Section 36(5)

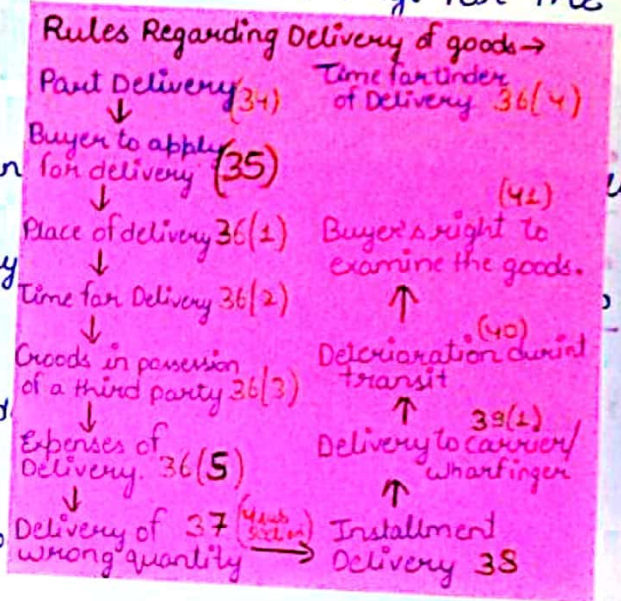
→ Expenses of and incidental to putting the goods into a deliverable state must be borne by seller in absence of contract to contrary.

#### ix) Delivery of wrong quantity → Section 37

Less → Buyer may →  
 • reject goods  
 • or accepts & pay. (Sub-section 1)

→ Goods with mixed description may accept or reject as whole (Sub-section-3)

More →  
 • reject all goods  
 • reject extra goods  
 • accepts all goods. (Sub-section-2) →



@beingcommerce



- x) Installment Delivery → Section 38  
Buyer is not bound to accept goods in installments.
- xi) Delivery to Carrier → Section 39(1)  
Delivery to carrier is assumed to be delivery to buyer.
- xii) Deterioration during transit → Section 40  
This loss is borne by buyer generally.
- xiii) Buyer's right to examine goods → Section 41  
Buyer must get reasonable opportunity of examining goods.
- Rules related to acceptance of Delivery of goods → Section 42
    - Intimates seller that he accepts goods.
    - Does any act to goods, which only owner can do. (Sale/pledge)
    - Retains good after lapse of reasonable time.
  - Buyer Not Bound to return rejected goods → Section 43
    - Buyer is expected only to intimate seller about rejection of goods & not return.
  - Liability of buyer for neglecting or refusing delivery of goods → Section 44
    - Buyer shall be liable to pay to seller, loss caused by his action.



# Unit 4. Unpaid Seller →

According to Section 45(1),

An unpaid seller is →

→ seller who has immediate right to take  
However haven't received whole price.

→ when he received bill of Exchange or Promise instrument, however when presented, got

Unpaid Seller's Rights: Section 46

1). Against Goods →

When property in goods has passed to buyer

1. Seller's Lien → Section 47.

Also known as *proprietorship* lien, that can be exercised by seller as →

- where goods are sold without credit. (Cash Sales).
- Goods are sold for credit but term expired.
- Buyer is insolvent.

Lien can be terminated → Section 49(1)

- when goods are delivered to carrier without
- when buyer/agent obtains possession.
- By waiver
- By estoppel. (when 3<sup>rd</sup> party believe that lien doesn't exist by seller)

2. Right of Stoppage in Transit → Section 50

• This right is exercised only when following

- Duration of Transit
- Seller must be unpaid
  - He must have transferred goods to carrier.
  - Goods in Transit
  - Buyer became insolvent
  - Rights as per act.

Includes Section 51 & 52.

When transit comes to an end → (How stoppage in transit is effected) (Section 52)

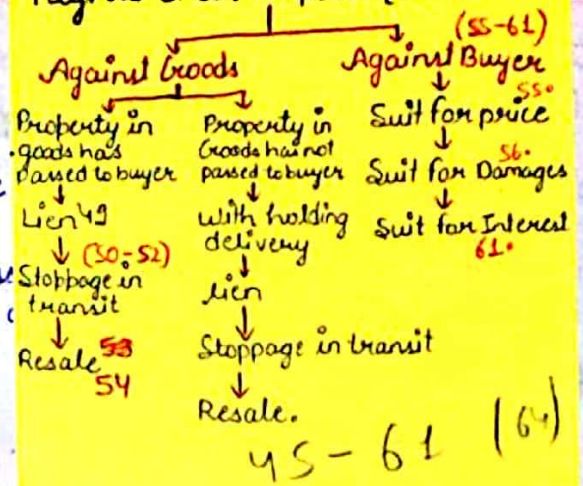
- When buyer or his agent obtains delivery.
- Buyer obtains delivery before arrival of goods
- Carrier acknowledges buyer about holding goods.
- If carrier wrongfully refuses to deliver goods.
- Goods are delivered to carrier hired by buyer.
- Goods delivered to ship chartered by buyer.

3. Effect of Subsale or Pledge by buyer. → Section 53.

Right of lien or stoppage in transit shall not get affected by buyer selling or pledging unless seller assented to it.

However, rights get defeated once document of title is transferred.

## Rights of an Unpaid Seller



## Part Delivery (Section 48) →

Where an unpaid seller has made part delivery of goods, he may exercise his right of lien on remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.



**Right of Resale** → Section 54 *Explicitly reserved in contract.*

If goods are perishable → Seller need not inform about Resale.

If goods are non-perishable → Seller shall give notice to buyer about intention of resale. If fails to give notice then: → sale law of resale shall be bounded by seller & profit needs to be transferred to buyer.

→ However, if notice is given, loss will be bounded by <sup>original</sup> buyer & Profit will be taken by seller.

If Property in Goods are not passed to buyer →

"All other rights remain same concept are additional Right"

i) **Right of withholding** → This is similar to lien & known as Quasi lien.

2. **Right of unpaid seller against Buyer:** → (55-61)

i) **Suit for Price** → Section 55.

→ Unpaid seller can sue buyer for not paying price of goods sold. *Also known as right in personam.*

ii) **Suit for Damages for non-acceptance** → Section 56.

→ Where buyer wrongfully denies to accept goods seller may sue him for damages.

iii) **Repudiation of contract before due date** → Section 60 *Anticipatory breach of Contract.*

→ Seller may sue buyer for damages of anticipatory Breach.

iv) **Suit for interest** → Section 61

→ Seller may sue before buyer for interest due from goods price that are yet to be delivered.

**Right of Buyer:** -

1. Damages for non-delivery. Section 57.

2. Suit for Specific Performance. Section 58

3. Suit for breach of warranty. Section 59

4. Suit for anticipatory breach. Section 60 (Repudiation of contract before due date)

5. Suit for interest.

**Auction Sale:** - (Section 64)

Modes of Selling Property by inviting bids publically.

**Rules of Auction Sell:**

i) where goods are sold in lots →

• Separate Contracts are created.

ii) Completion of contract of sale →

• Sale is complete when announces its completion by fall of Hammer.



iii) Right to bid may be reserved:-

iv) Where sale is not notified by seller:-

• It is unlawful for seller to bid himself or to employ any person.

v) Reserved Price:-

vi) Pretended Bidding:-

• Sale is voidable at option of buyer.

Changes in tax rates:-

If increases →

• before sale but after agreement to sale.

• Buyer shall pay higher tax.

If decreases →

• Buyer shall pay lower tax.

# Tax here means GST