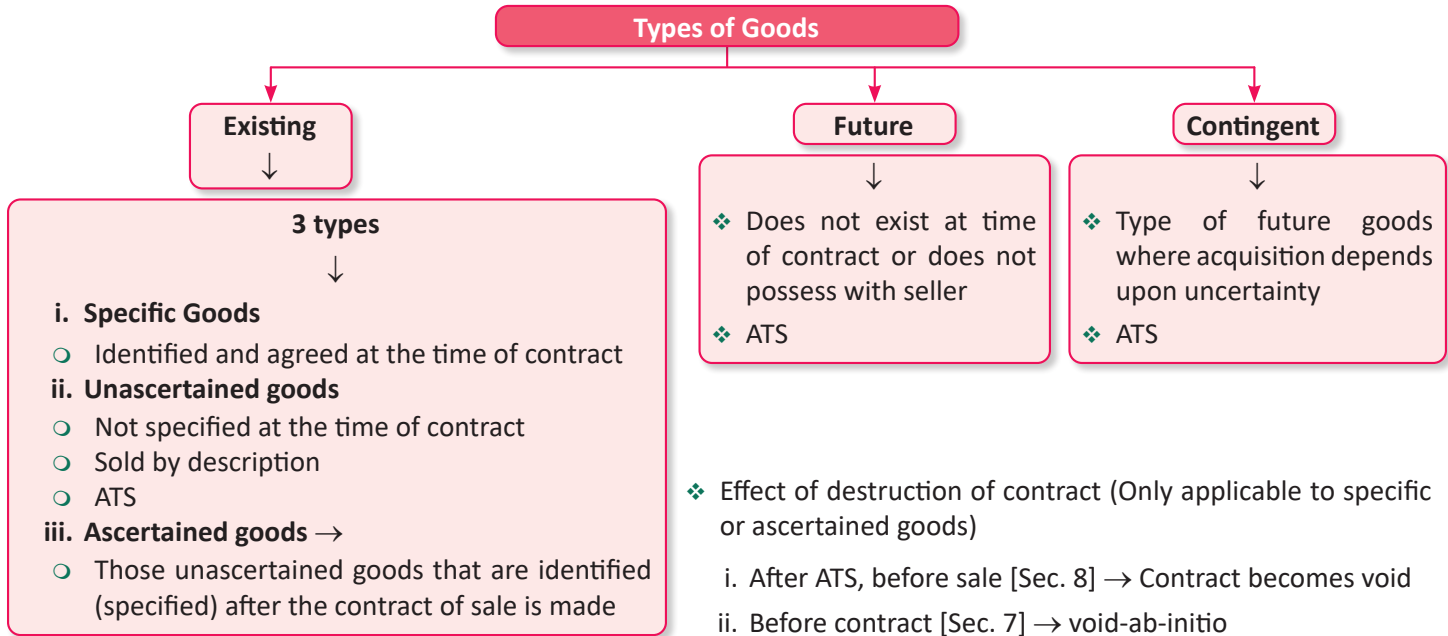


3

Chapter

THE SALE OF GOODS ACT, 1930

TYPES OF GOODS



CONDITION

❖ What is a Condition?

Stipulation essential to main purpose of contract, the breach of which gives rise to a right to treat the contract as repudiated”

❖ Following are implied conditions

- i. **Title** → Seller has right to sell
- ii. **Description** → Goods must correspond to description
- iii. **Sample** → Goods must correspond to sample + merchantable + buyer should have opportunity to inspect
- iv. **Sample and description** → Goods must correspond to both sample and description
- v. **Merchantability** →
 - ❖ Goods
 - ❖ No manuf. Defect.
 - ❖ If buyer inspected then no implied condition
 - ❖ Latent defect → cannot find with inspection then condition remains
- vi. **Wholesomeness** → Eatable should be fit for consumption
- ❖ **Breach of condition** →
 - Contract voidable
 - Damages can be claimed

What is Warranty

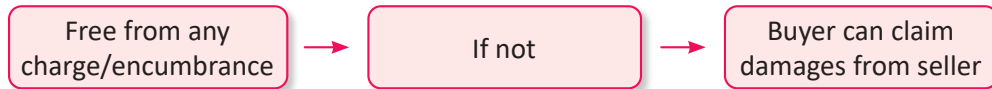
A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated

Implied Warranties

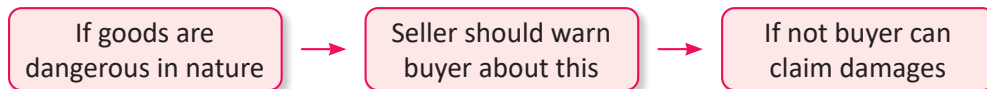
1. As to undisturbed possession



2. Free from any encumbrance



3. Goods – dangerous nature → disclosed



4. As to Quality or fitness by custom/usage of trade

*When can condition be treated as warranty [Sec. 13]

1. When buyer **voluntarily waives** the performance of contract.
2. Buyer treats breach of conditions as breach of warranty i.e. instead of repudiating the contract, he claimed only damages.
3. Contract **Non-severable** → buyer has accepted other whole or part goods.
4. When fulfilment of condition or warranty is excused by law e.g. : Court's order

CAVEAT EMPTOR (TQ/PQ)

- ❖ No implied condition as to quality or fitness
- ❖ Buyer should be aware
- ❖ If he makes bad choice he is responsible
- ❖ Cannot return goods or claim damages



- i. Uniform material purchased without disclosing purpose – if cloth unfit → cannot avoid contract
- ii. Lady purchased synthetic pearl thinking of natural pearl

EXCEPTION TO CAVEAT EMPTOR (CAN AVOID CONTRACT)

i. Basic Exception/fitness as to quality or use

Buyer told seller
purpose

+

Relied on sellers skill

+

Goods are within seller's
ordinary course of business

ii. Fraud/active concealment

iii. Goods purchased under patent name/brand name

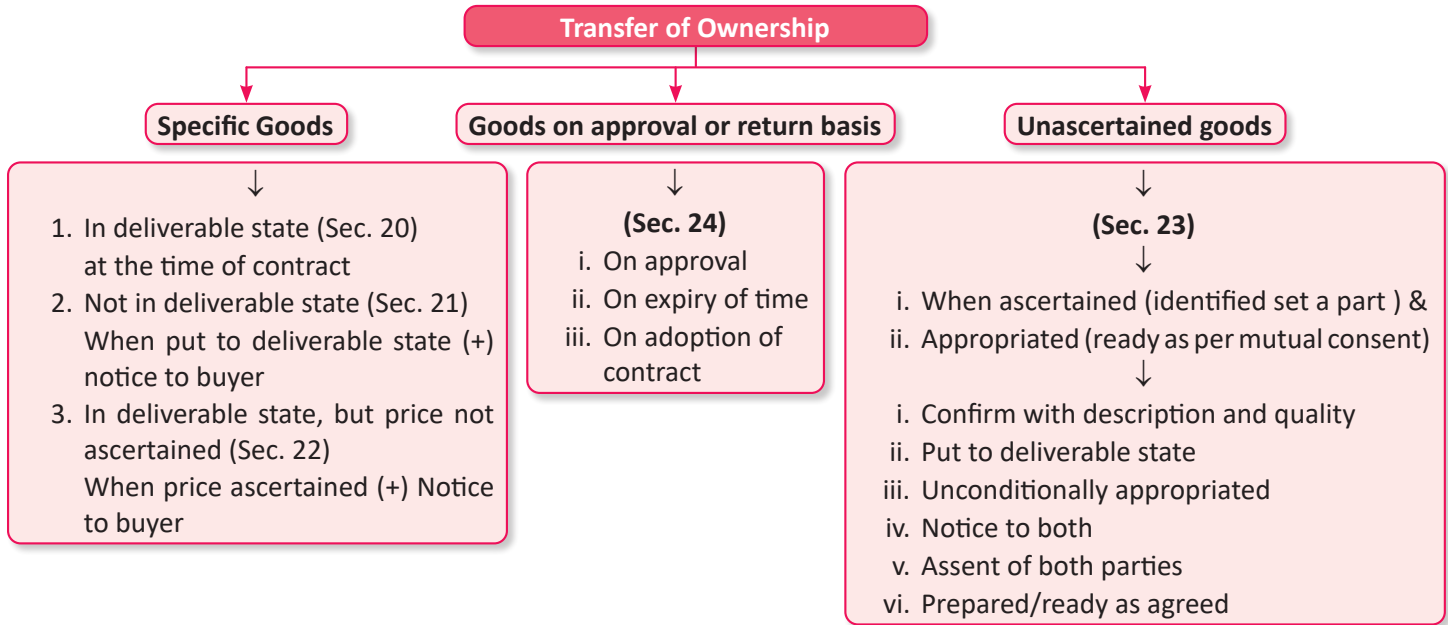
iv. Customs/usage of trade

v. Other implied conditions like sample, description, merchantability

P.Q Alert

o i. Lady's skin allergic → did not disclose the fact

TRANSFER OF OWNERSHIP



***Nemo Dat Quod Non Habet (Se 27)**



“No one can give what he does not have”

Only owner can transfer valid ownership to buyer, non-owner cannot



i.e. non-owner cannot trf. ownership to buyer



Exception → i.e. in some cases even non owner can trf. Valid title

***when can a non-owner trf. title/ownership**

Sec. 27 → **Proviso (exception) 1**



AU – EFGHI²J

1. A → **Sale by Agent**



Trf. Ownership to buyer

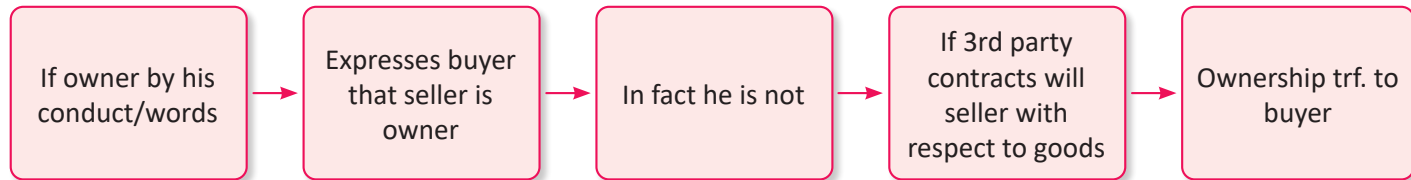
If → **conditions**

- i. Goods in possession of agent by consent of seller
- ii. Agent acted in ordinary course of business
- iii. Buyer took goods in good faith i.e. no knowledge of non authority

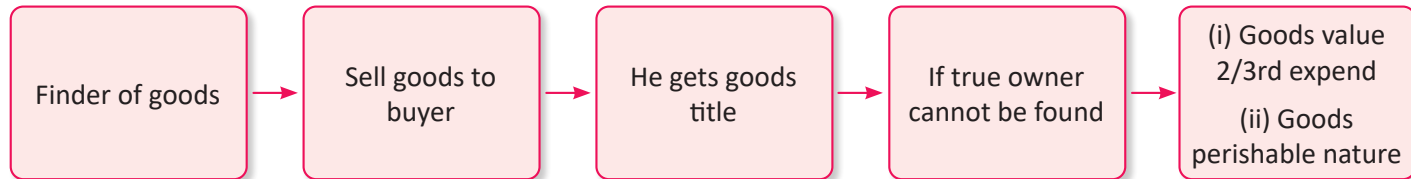
2. U → Unpaid Seller



3. E → Estoppel



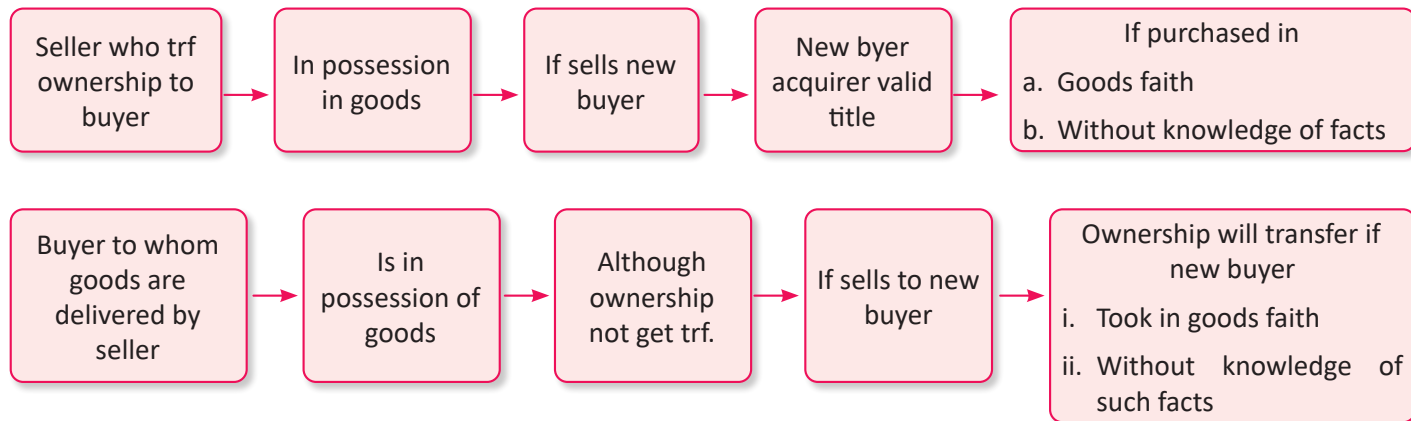
4. F-G → Finder of goods/holder with limited interest



5. H → Holding under voidable contract [Sec. 29]



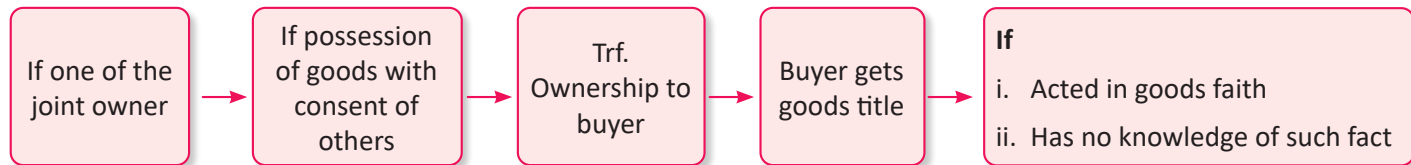
6. I → Seller / buyer in Possession [Sec. 30]

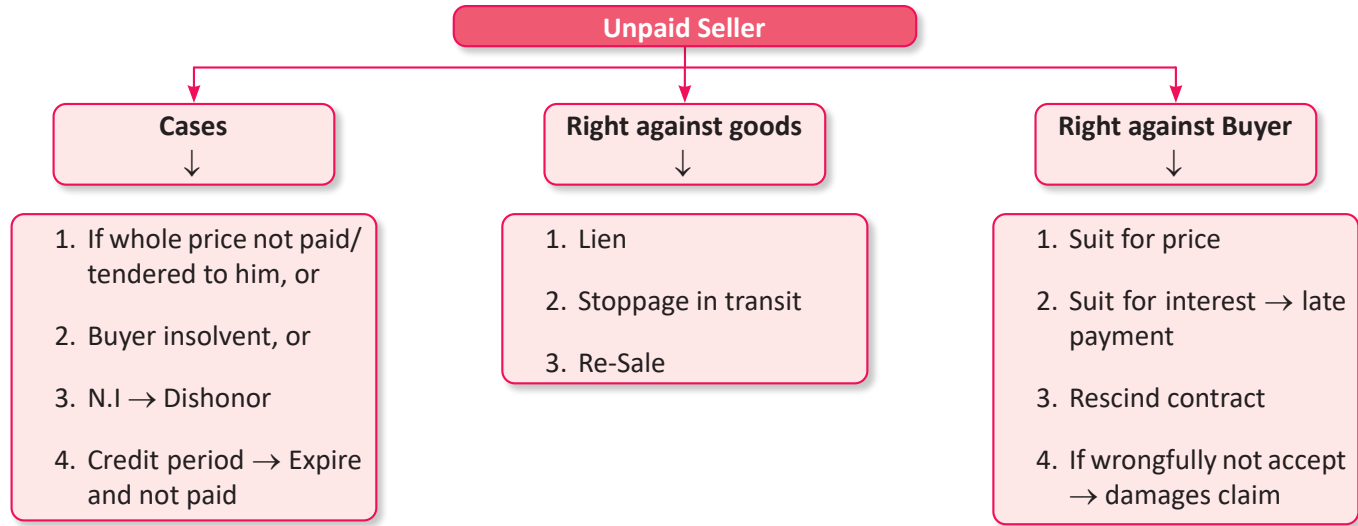


7. I → Insolvent



8. J → Joint owner/co-owner [sec. 28]





	Right of Lien (Sec 47)	Stoppage in Transit	Re-Sell
1. Meaning	Right to retain possession of goods till money is paid	Right to regain possession and calling back goods by stopping in transit	Selling again to new buyer as no payment by original buyer even after reminders
2. When/ conditions	Seller unpaid (exam of write all cases of unpaid seller)	i. Seller unpaid ii. Deliver to carrier → who is independent middlemen i.e. not agent to seller or buyer iii. Goods in transit iv. Buyer becomes insolvent v. The right is subject to provisions of the Act	i. Goods of perishable nature (no notice required) ii. After giving notice to buyer & giving him sufficient time to pay iii. Where an unpaid seller who has exercised his right of lien or stoppage in transit resells the goods iv. A re-sale by the seller where a right of re-sale is expressly reserved in a contract of sale v. Where the property in goods has not passed to the buyer

3. Terminate/ End.	Basis Rule If possession is lost, lien is lost Cases: i. Delivered to buyer/agent/ carrier without reserving the right of disposal of the goods. ii. seller waives his right to lien iii. By estoppel iv. Where the buyer or his agent lawfully obtains possession of the goods	When transit comes to end Cases: i. When buyer/agent obtains delivery ii. Where buyer intercept delivery (took before destination) iii. Where carrier becomes agent of buyer iv. Wrongful refusal to deliver v. Carrier hired by buyer vi. Part delivery in progress of whole delivery vii. delivered to a ship chartered by the buyer, the transit comes to an end	Original If obtains possession of goods buyer/agent
4. Other IMP Pts	i. Lien can be exercised even by non-owners e.g.: Agent/ bailee		In Re-sell 1. If notice given where required Profit → retain by seller Loss → Recover from

	ii. It is inseparable in nature iii. Even for part delivery you can lien goods not delivered iv. You can lien entire goods even where part payment is made	X	original buyer 2. No notice given to orig. buyer Profit → Orig. Buyer Loss → Seller will bear
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*Buyer's right if breach by seller

1. Suit for delivery
2. Suit for damages due to late delivery
3. Suit for specific performance when
 - a. Damage cannot be calculated
 - b. Damage not a adequate remedy
 - c. Unique goods
4. Suit for interest/loss of profit/special damages



When buyer knew

5. Rescind/Repudiate contr\act
6. Suit for breach of warranty (Section 59)

AUCTION SALE [SEC. 64]

i. Meaning	Special mode of sale where many buyers try to outbid each other to secure contract
ii. Rules:	
(a) Completion of Sale	❖ To higher bidder by fall of manner / customary method
(b) Reserve / Upset Price	❖ Below which goods not sold even to highest bidder
(c) Seller's right to bid	❖ Normally cannot bid ❖ If pre-intimates, he can bid, but either himself or only 1 agent ❖ More than 1 agent, fraud contract voidable
d) Puffing/Pretended bidding	Seller appoints person to increase bid
e) Knockout agreement	❖ Agreement between buyer not to bid against each other ❖ Valid
f) Damping	❖ Illegal way to prevent from bidding by ○ Pointing defects ○ Use illegal means ❖ Punishable