

THE SALE OF GOODS ACT (1930)

UNIT 1 - FORMATION OF THE CONTRACT OF SALE



Buyer

Contract of goods

Seller



movable property, other than actionable claims and money, include stock and shares, growing crops, grass, and things attached to or forming part of the land; agreed to be separated from the land before sale. [Section 2(7)]

Note- Goods also include goodwill, copyrights, patents, trademarks, stocks, shares etc.

CLASSIFICATION OF GOODS



- EXISTING goods- Section 6-** "The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods."

TYPES



Specific	Ascertained	Unascertained
goods identified at time of sale	goods are identified after the contract is made	goods are indicated only by description/sample

- FUTURE goods- Section 2(6)-** the goods that will either be manufactured/ produced/ acquired by the seller at the time the contract of sale is made."

FORMATION OF THE CONTRACT OF SALE

- **CONTINGENT goods-** **Section 6-** "Acquisition of goods depends upon an uncertain contingency (uncertain event)."

DELIVERY



Section 2(2)- "Voluntary transfer of possession from one person to another."

FORMS of DELIVERY



Actual

Goods are delivered physically to buyer.

Constructive

Transfer of goods without change in actual possession

Symbolic

Delivery in token of transfer of something else.

Section 2(3)- "Goods are said to be in a deliverable state when they are in such a condition that the buyer would, under the contract, be bound to take delivery from them."



DOCUMENT OF TITLE TO GOODS



Any documents used in the ordinary course of business as a proof of possession/ control of goods/ represents the transfer of goods.

Note- Share certificate- A person named in a share document is entitled to the share represented by it, but it does not allow that person to transfer the share by mere endorsement on the back of the certificate and the delivery of the certificate.

FORMATION OF THE CONTRACT OF SALE

MERCANTILE AGENT

Section 2(9)- "agent in the customary course of business has, as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods."



PROPERTY

Section 2(11)- "property means 'ownership' or the general property i.e. all ownership right of the goods." In contract for sale, ownership must be transferred from seller to buyer.



INSOLVENT

Section 2(8)- "someone who ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due, whether he has committed an act of insolvency or not."



PRICE

Section 2(10)- "The consideration for the sale of goods is called price."



QUALITY OF GOODS ★★★★★

Section 2(12)- "The quality includes the state or condition in which the goods are expected or promised to be delivered."



SALE AND AGREEMENT TO SELL



- Section 4(1)-** "A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price"

FORMATION OF THE CONTRACT OF SALE

- **Section 4(2)**- "A contract of sale may be absolute/ conditional."
- **AGREEMENT TO SELL- Section 4(3)**- "where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell."
- **SALE- Section 4(4)**- "An agreement to, sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred."



WHEN AGREEMENT TO SELL BECOMES SALE

- At least 2 parties- seller, buyer.
- Goods must be a movable property; goods may be existing/ future goods.
- The price (money) should be paid/ promised. 
- Transfer of property must happen from seller to buyer.
- Contract- absolute/ conditional. 
- Other essentials of a contract.

SALE	AGREEMENT TO SALE
Property is passed to buyer immediately. 	Property is passed on future date/ condition fulfilment.
Executed contract.	Executory contract. 
Seller cannot resell goods.	Seller can resell goods.
loss/ destruction- liability of buyer.	loss/ destruction- liability of seller.

FORMATION OF THE CONTRACT OF SALE

SALE	AGREEMENT TO SALE
Seller can sue the buyer for price of goods. 	Aggrieved party can sue only for damages (not any price).
Risk of loss- buyer.	Risk of loss- seller. 
Rights against the whole world.	Rights against a particular party of contract.
Official assignee will not take over the goods, but can recover price from buyer.	Official assignee acquires control over goods, but price is non recoverable.
Official assignee has control over goods.	Official assignee will not have control over goods.
SALE	HIRE- PURCHASE
Property transferred to buyer at the time of contract.	Property passed to hirer on payment of last instalment.
Buyer- owner of the goods.	Hirer- Bailee till last instalment. 
Buyer cannot terminate contract. 	Hirer can terminate contract without payment.
Seller takes risk of any loss.	Owner takes no risk of loss.
Buyer passes title to a bona fide purchaser. 	Hirer cannot pass the title until last instalment.
Buyer can resell the goods.	Hirer cannot resell unless he has paid the last instalment.

FORMATION OF THE CONTRACT OF SALE

SALE	BAILMENT
General property (goods) transferred from seller to buyer.	Special property transfer from bailor to bailee. 
Return of goods- not possible. 	Bailee must return goods to bailor.
Consideration- price (money)	Consideration- can be gratuitous/ non- gratuitous.

Note- Contract of sale- goods are sold
Contract of labour- only work and labour (no sale of goods)



HOW IS CONTRACT OF SALE MADE



Section 5(1)- "A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed."



SUBJECT MATTER OF CONTRACT OF SALE

Section 6- (1) "The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods."

(2) "There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen."



FORMATION OF THE CONTRACT OF SALE

(3) "Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods."



Section 7- "Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract."

Section 8- "Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided."



ASCERTAINMENT OF PRICE



Section 9- (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties."



Section 10- (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

FORMATION OF THE CONTRACT OF SALE

Section 10- (2) *"Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault."*