

CA FOUNDATION



SAMPURNA

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The Sale of Goods Act, 1930

3 STaR Sheets

Business Law

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★ SCOPE & Applicability of the Act (SOGA, 1930)

★ - This Act came into force on 01/07/1930 & it is applicable to the whole of India.

★ - This Act deals with the sale of goods in India. means applicable only to MOVABLE & not immovable property. (IMMP - TOPA, 1882)

- General provisions of The ICA, 1872 will apply to SOGA except when ICA is inconsistent with SOGA. (express)

- If a term not defined in SOGA → it will take its meaning of ICA.

★ 504A is Not applicable in the following cases -

- ★ (1) Sale of Immovable property.
- ★ (2) Contract of services (work & Labour)
- ★ (3) Barter [Exchange of a good for a good]

(4) Contract of Bailment.

(5) Contract of Pledge

(6) GIFT = As no price or consideration
eg

eg: (CJ)  Pappu wedding

eg: Hero $\xrightarrow{\text{security}} \text{सेठ जी}$
↓
(माँ) operation $\xrightarrow{\text{गहन मिरवी}}$

★ SECTION 4 → Contract of Sale

★ Definition :- Where a buyer buys or agrees to buy and seller sells or agrees to sell, movable goods. This results in transfer of ownership / property for price.

- { elements of contract of Sale }
- Two parties (B & S)
 - Price (consideration)
 - Subject matter - Movable goods
 - Transfer of property (ownership)
 - All essential elements of a valid contract.
- Absolute or conditional
- Delivery.



Tangible or Intangible - **IPR**

- Goodwill
- Copyright
- Trademark
- Patent

Intellectual
Property
Rights.



ACTIONABLE claim :-

It is not a good.



Action - able

Right / अधिकार



court - suit
दिले

on
debt / money
या
future benefit

- eq: A $\xrightarrow[\text{50,000}]{\text{loan}}$ B

AC
✓ - secured (X)
unsecured (✓)

It is a claim or debt or future benefit which is unsecured and can be enforced only by legal action by filing a suit or going to the court. eq: insurance claim or arrears of Rent.

secured हैना -
Mortgage, pledge or
Hypothecation. X AC

eq: Insurance claim
↓
Future benefit

★ Transfer of Property = Ownership

★ This means in the contract of Sale GENERAL
property gets transferred and not merely (HTA)

★ SPECIAL PROPERTY.

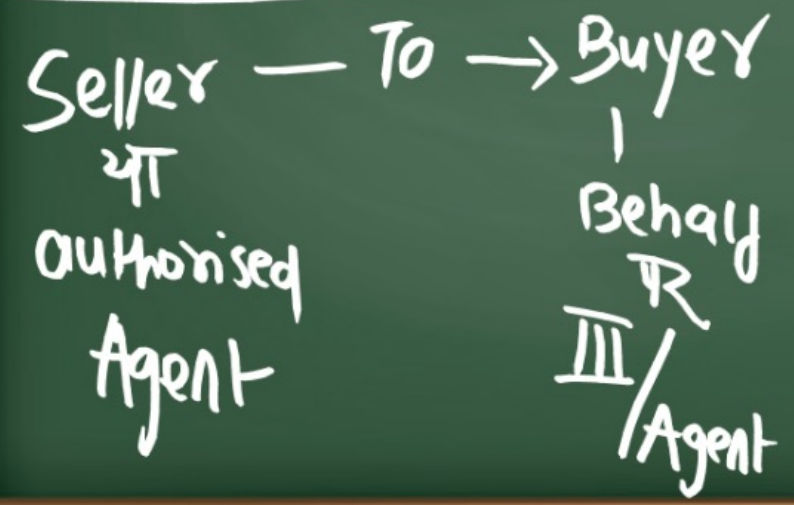
→ Example of special property → Contract of Bailment
Pledge.

→ General property means Full Ownership, complete rights
including transfer or Re-Sale. This means complete
control & responsibility gets transferred.

☆☆☆ ACTUAL

Most common method of delivery

Possession gets physically transferred



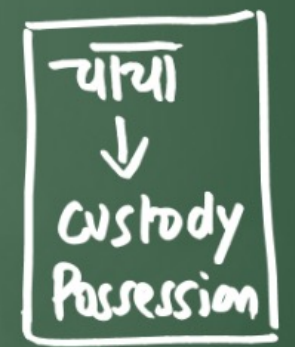
Constructive →

Delivery takes place w/o change in the custody of the Goods.

Delivery will complete when acknowledgement to the Buyer takes place



(S)
CT



(B)
DJ

acknowledge that he holds Rice in Buyer's Behalf

★ Symbolic Delivery

★ Where actual delivery or physical possession can't be transferred then in such case delivery taken place through transfer of a Token of something else.

eq: DOCUMENT OF TITLE (DOT)
Rejey ★★★ of DOT for types.
→ RR / BOL / WKC / WC etc.



Delivery of goods :- from point (A) to point (B)

- | | | |
|---------------|---------------------|---------------------------------|
| ① Railway | } Mode of Transport | → Railway Receipt |
| ② Road | | → WH Keeping Certificate |
| ③ Water | | → Dock Warrant |
| ④ AIR | | → Wharfinger's Certificate |
| ⑤ Multi Modal | | → Bill of Lading |
| | | → Multimodal Transport document |

Example of DoT



★ Sale vs Agreement to Sell :-

★ In Contract of Sale there is an immediate transfer of ownership whereas in Agreement to sell, ownership transfers at a future date or upon

fulfilment of conditions.

→ A2S converts into contract of Sale when
 → time lapses
 or
 → conditions fulfilled

→ In Sale, Buyer becomes the owner hence liable for loss / Risk.

But in A2S, Seller is still the owner hence Risk / loss is of Seller

★ Some special points to Keep in Mind :-



Contract

RISK

Re-Sale

Breach

Nature of Rights

SALE

Executed

Risk = Buyer

Seller **NO**.

Seller → Buyer
Suit
FOR PRICE.

Complete rights against
the whole world

Jus in Rem

A2S

Executory

RISK = Seller

Seller = **YES**.

Aggrieved party ⇒ Suit
But for damages & not for
PRICE.

Rights against a particular
person.

Jus in Personam



BUYER

Sale

owner = B

OA will take control over the goods

A2S

owner = S

OA = (X)
can't take control.

INSOLVENCY

court
adjudicate

appoint

{ official assignee }

Official liqui.



Insolvent

Seller

Sale

owner = B

OA will not be able to take control

A2S

owner = S

OA will be able to take control



EXISTING
Goods
Exist

- owned
- Possessed
- Acquired

@ the time of making the contract

FUTURE GOODS

eg: MILK

Seller
आप
@ time of making contract

To be

- Manufacture
- Produce
- Acquire

दोना हो	} SALE \$	} ✓
सको है		
	} A2S	} ✓

Sale (X)
A2S (✓) Always.

★ Types of Goods :-

★ (1) EXISTING Goods :- Goods which exist at the time of making the contract. Seller already owns, possesses or acquired the good at the time of contract. These goods can be a sale or an A2S.

★ (2) Future Goods :- Goods which are yet to be MFG-ed produced or acquired by the seller after the contract has been made. Such goods will always be an A2S.

★ (3) Contingent Goods :- Acquisition of such goods depend on an uncertain contingent event. similar to FG \Rightarrow A2S.

★ Types of EXISTING Goods :-

★ (1) Specific Goods :-

Goods which are identified & agreed @ the time of contract

★ (2) Ascertained Goods :-

When out of large Qty or larger lot of unascertained goods are identified are called Ascertained Goods.

(3) Unascertained Goods :-

Goods which are not identified or Ascertained @ the time of making the contract. They are indicated sample description



	GOODS PERISHING OR PERISHED	IMPACT
7	BEFORE THE CONTRACT (INITIAL IMPOSSIBILITY)	VOID
8	BEFORE SALE BUT AFTER AGREEMENT TO SELL	After an agreement but before the risk passes to the buyer, VOID
	FUTURE GOODS PERISHING (SUPERVENING IMPOSSIBILITY)	VOID



INITIAL
Impossibility

SECTION 7

Before the
Contract

Contract = Impossible

Why?

Because my subject matter
does not exist @ the time
of contract.

VOID AB Initio

DESTRUCTION

Subject matters

Goods

{ good items
Perishable }

SECTION - 8

A2S

बाद में

Sale

पहले

Impossibility
आ गई

**SUPERVENING
IMPOSSIBILITY**

VOID

★ SECTION 9 :- How to ascertain / determine the PRICE ?

- ★
- ★
- ① Fixed in the contract
 - ② III party - appoint = Valuer
Sec. 10.
 - ③ Previous dealings से
- } If not possible
Reasonable PRICE

Even though parties did not decide the price in the contract, it will remain valid & enforceable. Buyer will pay Reasonable price to the seller.

SEC. 10 - If III person / Valuer does not set the price = Agreement = VOID

Party who prevents the valuer from setting the ₹ = liable for the Damages.

- ★ REPRESENTATION :-
- ★ Certain statements / words → made by the seller →
- ★ To induce → for buyer to purchase the goods.
- ★ Such representations are about Quality / Nature of the goods



(✓)
STIPULATION

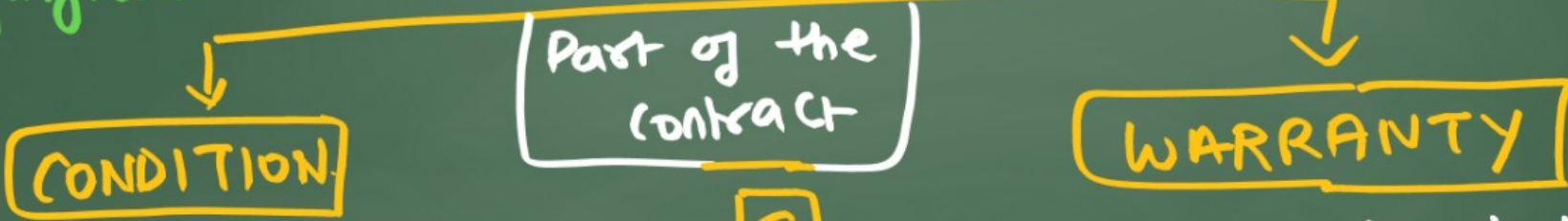
It is a representation which forms a part of the contract and affects the contract

(X)

MORE IMP. - eg: Engine / Mileage / Tyre etc.

LESS IMP. - eg: Gannu statue : Perfume

★ Every stipulation is not of equal importance.
 ★ Some stipulation will be **VITAL** but some will be of less
 ★ significance.



It is a stipulation which is more significant in the contract of sale.

- **ESSENTIAL** to the Main purpose

Breach of Condition - Repudiate (cancel) the contract
 Right ✓

SECTION 12

It is a stipulation which is of less significance in the contract of sale.

- **COLLATERAL** to main purpose

Breach of Warranty → Right to Claim Damages	cannot repudiate the contract.
---	--------------------------------

★ SECTION 13 :- Breach of Condition to be treated as BOW

- ★ There are 4 cases where BOC will be treated as BOW
- ★ As a result, right to repudiate the contract is LOST.
- ★ You can claim only damages. means contract is not avoided even after breach of condition.

- | | | |
|---|-------------------------|--|
| ① | } Voluntary Conversion | } Buyer <u>completely waives</u> the right |
| ② | | |
| ③ | } Compulsory Conversion | } Non-Severable Goods. |
| ④ | | |

★ (1) Buyer completely ignores / waives off the right to repudiate / rescind the contract. It is a voluntary waiver of a stipulation by the buyer.

★ (2) Buyer elects to treat BOC as BOW. Instead of repudiating the contract he will claim only damages. Here the buyer has not waived but treated it as BOW.

★ (3) When the contract is non-severable & buyer has accepted the goods wholly / partially.

(4) When by the reason which is not under control of any party, BOC will be excused by the law.

★ (1) CONDITION AS TO TITLE :- SECTION 14(a) →

★ This is an implied condition on the part of seller -

★ (a) In contract of sale, right to sell the goods

★ (b) In A2S, he will have right to sell at the time when property will pass.

- It means seller should be the Real owner.

- If the ownership / Title turns out to be defective, then buyer shall return the goods to the real owner & recover the price paid from seller.

★ (2) SALE BY DESCRIPTION :- SECTION 15 :-

★ It is an implied condition which says that the goods shall correspond (match) with the description.

★ If it does not match then buyer is not bound to accept or pay ^{for} the goods, he can return it whether or not goods were inspected.

- Importance of description depends on the contract & facts.

(4) Condition as to Sale by Sample & description :- Bulk shall match

both	Sample	✓	✓	✗
	description	✓	✗	✓

→ Buyer can Repudiate.

- ★ For concept
- ★ Building
- ★

Inspection Buyer
 detail

Dejects

PATENT
 deject

Apparent

ordinary
 examinatr

{ normal inspection }
 4R = find

LATENT
 deject

Hidden

(extra-ordinary
 examination)

★ (3) SALE BY SAMPLE :- Section 17 :-

- ★ This is an implied condition where Bulk shall match (correspond) with the sample in quality.
- ★ - Buyer should be given reasonable opportunity to inspect & compare the bulk goods with the sample.
- The goods shall be free from any kind of hidden / latent defect which is not discoverable with ordinary examination
- If they are not free from such defect then buyer can reject the goods. & avoid the contract.

★ (5) condition as to Merchantability :- Sec. 16(2)

★ When goods are bought by description ① & from the
★ seller who ② deals in the goods of that description
then it is an implied condition that he has to
provide merchantable quality. [2 conditions]

↓
(A man of ordinary prudence
will accept such quality goods)

→ If the buyer has inspected / examined the goods and was not-
able to reveal the defect then no such implied condition of M.

★ Implied Condition as to Quality/Fitness →

★ Ordinarily, there is No Implied Condition or warranty as to Q/F of the goods sold BUT

★ Implied condition will be applicable & Goods shall be reasonably FIT when following condition are met

- (1) Buyer has made seller known about the particular purpose
- (2) Buyer has relied on seller's skill/judgment for BEST goods
- (3) Seller is a dealer who regularly deals in described goods.

→ It does not apply when goods are sold under a brand name or Patent/Trademark.

→ No need to tell seller about the purpose when goods have only single purpose.

sec: 16

CAVEAT EMPTOR :- "Let the buyer beware"



→ It is buyer's responsibility to satisfy himself that the product will serve the purpose.



→ Seller is not bound for buyer's BAD DECISION.



→ Seller is not responsible / bound to disclose all defects

→ If the goods turn out to be defective & buyer relied on his own skill / judgement then he cannot hold the seller liable.

Buyer should make proper informed decision / selection or choice

★ Special point Job Caveat Emptor :- Section 16 :-

If the buyer has satisfied all the three conditions -



(1) - Particular purpose



(2) - Seller rely - skill / judge



(3) - Seller - dealer - goods

Seller will be held liable.

There are few exceptions to this rule →

(1) Reasonable Q/F.

(2) Sample

(3) Description

(4) Sale / Description

(5) Merchantable Quality

(6) Goods purchased under TM / Brand name

(7) Seller - ~~गुण~~ - Conceal / Fraud

(8) Trade usage - Implied ✓



KEY TABLE for EXEMPTION ON CAVEAT EMPTOR

Exception	Description	Example
Fitness as to Quality or Use	Goods must be fit for the specific purpose communicated by the buyer.	Trucks for hilly terrain broke down; not fit for purpose.
Goods Purchased Under Patent/Brand Name	No guarantee of fitness for a particular purpose when buying a patented or branded product.	A branded laptop not suited for gaming; seller is not liable.
Goods Sold by Description	Goods must match the description given by the seller.	A "leather" sofa turns out to be synthetic.

Maqqi table





Goods of Merchantable Quality	Goods must be of acceptable quality; latent defects not covered.	A "high quality" appliance fails shortly after purchase.
Sale by Sample	Goods must match the provided sample.	Fabric ordered is faded compared to the sample shown.
Goods by Sample and Description	Goods must match both the sample and the description.	Shirts ordered as "blue cotton" turn out to be dull polyester.



Trade Usage	Goods must meet trade standards; deviation means Caveat Emptor does not apply.	Readymade garments must fit reasonably well; poorly fitting garments breach trade usage.
Seller Conceals Defect/Fraud	Seller liable for concealing defects or misrepresenting goods.	Priest vs. Last: Hot water bottle burst as it wasn't meant for boiling water.

★ Why timing of transfer of property is essential?

★ As per sec. 26 of SGA, 1930 - Risk prima facie passes with the property. Risk follows ownership.

★ Why? = To know legal rights & liabilities of seller & Buyer

→ Until the property passes = It is seller's RISK.

→ After the property passes = It is Buyer's RISK.

But subject to the agreement b/w the parties they may agree to contrary (विरुद्ध). Risk may transfer sometime before or after the property passes. (Depends on various factors)

★ PARTY AT Default for delivery of Goods. :-

★ Exception to the general rule of Sec. 26 :-

★ If delivery is delayed because of a party's default - (which could be seller or buyer)

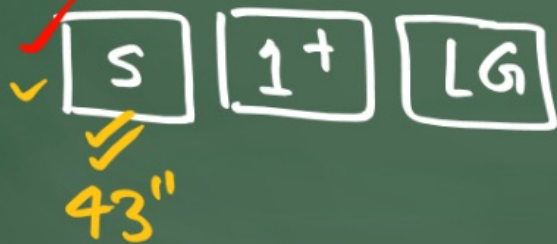
then such party will be liable for any kind of loss which happens.

★ Example sheet for sec. 20/21/22 :-

★ Sec. 20

★ Goods are in deliverable state

eg: TV = Showroom



Ready to Deliver

Sec. 21

Goods to be PUT (कार्या) in deliverable state



Laptop.

Lenovo ideapad
15"

operating system install

office 365.

Seller - Call (Notice)

12 hrs = OS install

Sec. 22

Goods are in deliverable state BUT Seller - (₹) Ascertain



sofa - 3 seater + 1 seater

Price calculate ✓

Seller => weight (Fruits)

action. => measure (cloth)

★ Passing of Property → Specified/Ascertained goods -

★ (1) Sec. 19 :- Property passes as per the intention of the parties. Intention can be determined -

- (1) C - contract/terms.
- (2) C - Conduct - parties
- (3) C - Circumstances of the case.

(2) Sec. 20 :- when goods are in deliverable state means they are ready to deliver unconditionally then property passes immediately at the time of contract. [Time $\begin{cases} \text{delivery} \\ \text{Payment} \end{cases}$ = Immaterial/ignore]

★ Continuation.....

★ Sec. 21 → When goods are not in deliverable state bcz
★ seller is bound to do something to bring
★ them into deliverable state. then property
does not pass until seller does it - and
Notifies the buyer.

Sec. 22 :- When the goods are in deliverable state but -
seller has to bring an action like weighing /
measuring etc. to ascertain the price. In such case
property does not pass until seller does so
and notifies the buyer.

★ SECTION 18 :- IDENTIFICATION OF GOODS : (Unascertained)

★ When contract of sale is for unascertained goods then property in such goods will transfer to the buyer

★ ONLY when the goods are ascertained.

SEC. 23 { This process of selection / identification of goods with an intention to perform the contract with mutual consent \Rightarrow APPROPRIATION of seller / Buyer

There are some essential elements of Appropriation which we need to fulfill

Refer next slide. 

★ Essential elements for Appropriation of Goods:

★ (1) Contract of sale - Unascertained / future goods.

★ (2) Goods must be in deliverable state

★ (3) Goods must match description & quality.

(4) Appropriation by seller - consent of Buyer.
by Buyer - consent of Seller.

(5) Mutual consent < express / implied | (6) Assent (ई) < After appropriation / Before

(7) **UNCONDITIONAL** Appropriation (★) without reserving the Right of Disposal.



23(2)

Appropriation of Goods

25

UNCONDITIONAL

- ① Delivery of Goods to the Carrier
- ↓
- ② To transmit to the buyer
- ③ Does not reserve Right of Disposal

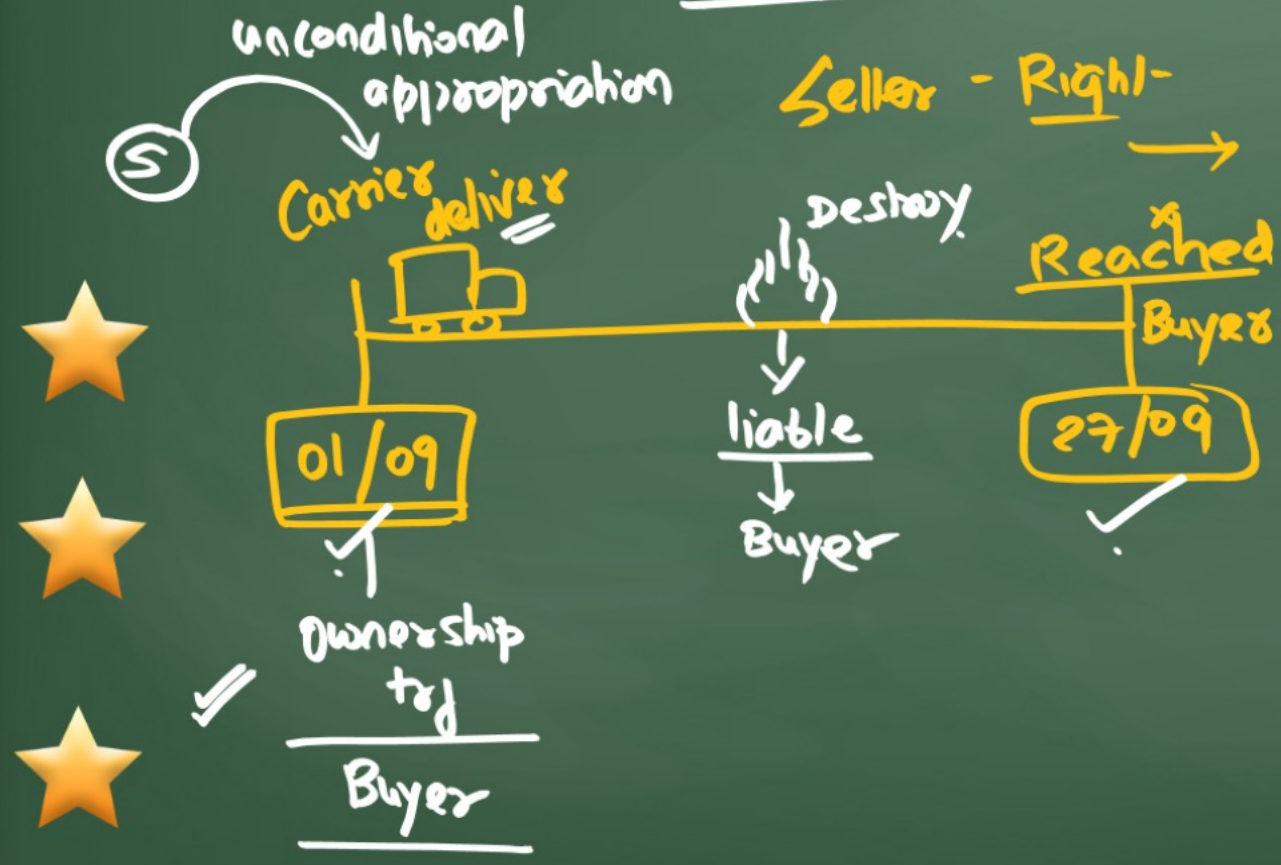
CONDITIONAL

Seller may Reserve the Right of Disposal

Conditions like Price (₹) until price is paid goods will not be delivered

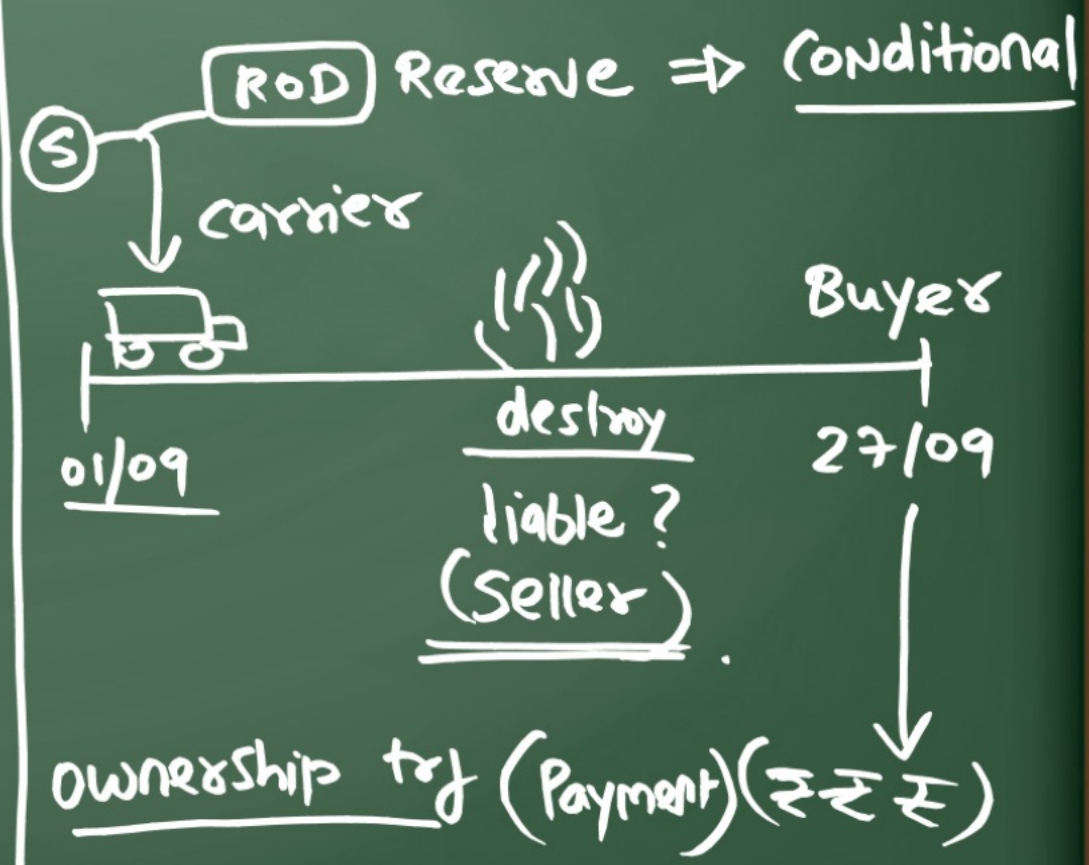
23 Deemed Appropriation

Seller - Carrier - w/o reserving **ROD**
UNCONDITIONAL



25 RIGHT OF DISPOSAL

CONDITIONAL APPROPRIATION



★ SECTION 23(2) :- Deemed Appropriation -

★ When seller delivers the goods to the carrier / bailee
★ for the purpose of transmission of goods to the buyer
★ and seller has **not reserved the right of Disposal** then
Such appropriation is deemed in nature as it is unconditional.

SECTION 25 :- Reserving the Right of Disposal = Conditional

When the seller preserves the ROD of goods means property will pass only after the condition is fulfilled (eg: Payment of price).

Also, ^{mere} delivery to carrier / buyer / bailee / Agent of buyer does not transf.

the property in the goods.

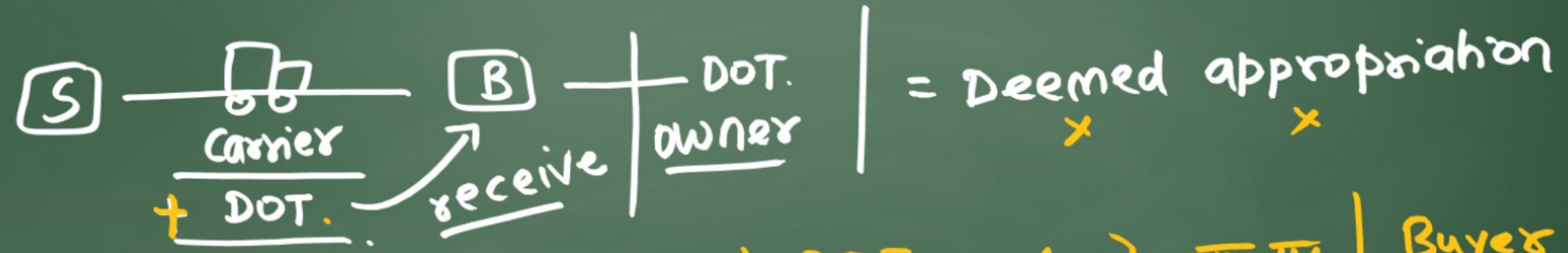
Continue.....



Presumed that seller has Reserved the ROD :-

⇒ Document of Title (DOT) = Railway Receipt / Bill of Lading . etc.

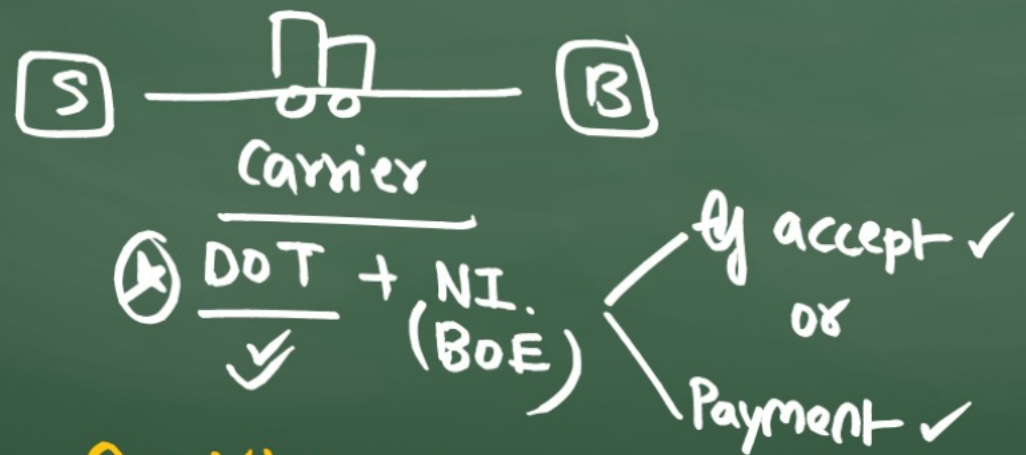
25(2)



Case-1

{ Conditional contract = ROD Reserve } DOT Seller/Agent ✓ के साथ पर order. | Buyer के साथ (X)

25(3)



Case-2

Conditional

31TR buyer accept (X)
 ↓
 Payment (X)
 DOT Return to seller.
 Buyer (जिम्मेदार) DOT retain करेगा ✗
 Wrongfully ≠ Property pass (X)

★ SECTION 24 :-

★ (1) Sale or Return basis :- When goods are sold to buyer on Sale or Return basis then the property passes :-

★ (1) (a) when buyer signifies the acceptance / approval.

(b) when buyer does not signify the acceptance but retains the goods w/o giving notice to the seller then property will pass

on expiry	When time is Fixed (2)
Reasonable time	Not (3)

(4) (c) he does something which is equivilent to acceptance.

eg: Pledge or Sale to III person.

★ Cash only or Return Basis :-

★ In such sale the property will pass only when the cash or payment is made by the buyer to the seller.

★ Q. What about the III party to whom the goods are Pledged / sold ?

Sole / Return basis

eg: Saree



z. Pledge
Sell

III person who has received the goods in Good faith, will receive Good title.

Cash only / Return basis

eg: Gold jewellery

Here III person does not receive Good title as ownership did not pass to the buyer @ the time when he pledged or sold the goods.

★ Sheet ① Summary sheet :- Delivery of Goods :- 32-44

★ 32 = Payment + Delivery = Concurrent conditions.

★ 33 = Delivery could be made by doing anything which both parties decide

34 = Part-delivery = If buyer takes part-delivery and no intention is shown in the contract then seller will treat it as whole delivery for the purpose of transfer of property. [Allowed = If contract says so]

38 = Installment :- If not agreed b/w the parties then buyer is not bound to accept delivery in instalment.

★ Sheet (2) Summary sheet :- Delivery of Goods :- 32-44

★ 35 - Buyer has to apply for the delivery

★ 36 - (1) - Place - (contract), cos = where goods are @ the time of sale
(2) - Time - Reasonable Time, A2S = where goods are
(4) - Time - Reus. Hours. @ the time of Agreement

(3) - Goods with III party - Goods are not said to be delivered until III party (wh keeper) acknowledges the buyer

(5) - (Expenses
To be borne by seller
sub. to the agreement)

39 = Delivery to carrier = Deemed delivery to buyer.

★ Sheet ③ Summary sheet :- Delivery of Goods :- 32-44

★ 40 - Deterioration of Goods in transit :-

★ If normal/unavoidable loss then buyer will have to accept
but if abnormal then seller will be liable.

41 - Buyer's right to examine the goods. = Yes

IMP 37 - Delivery of wrong quantity :-

- less than contracted qty
 < >
 Reject all Accept and pay @ contract price

- more than
 / | \
 Reject all Accept all Accept - contracted qty & Reject extra

Mixed - separate ✓
 |
 Separate ✗ (A) (R)
 |
 Reject all

42

Rule related to 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.

Seller

Seller



43

Buyer not bound to return rejected goods ✓



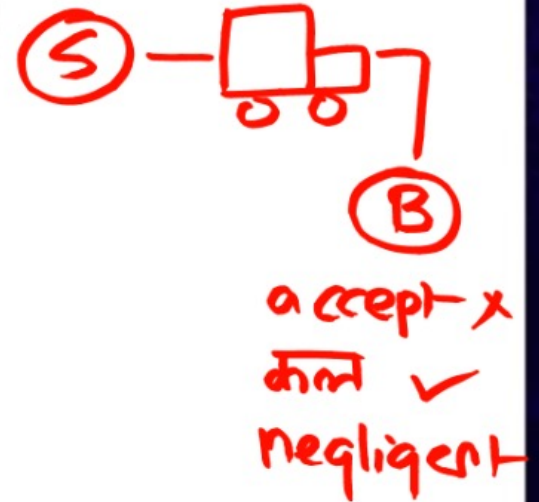
- Unless otherwise agreed, where goods are delivered to the buyer and
 - he refuses to accept them,
 - having the right so to do,
 - he is not bound to return them to the seller,
 - but it is sufficient if he intimates to the seller that he refuses to accept them.
- (No) = Buyer responsibility to return goods.

44

Liability of buyer for neglecting or refusing delivery of goods



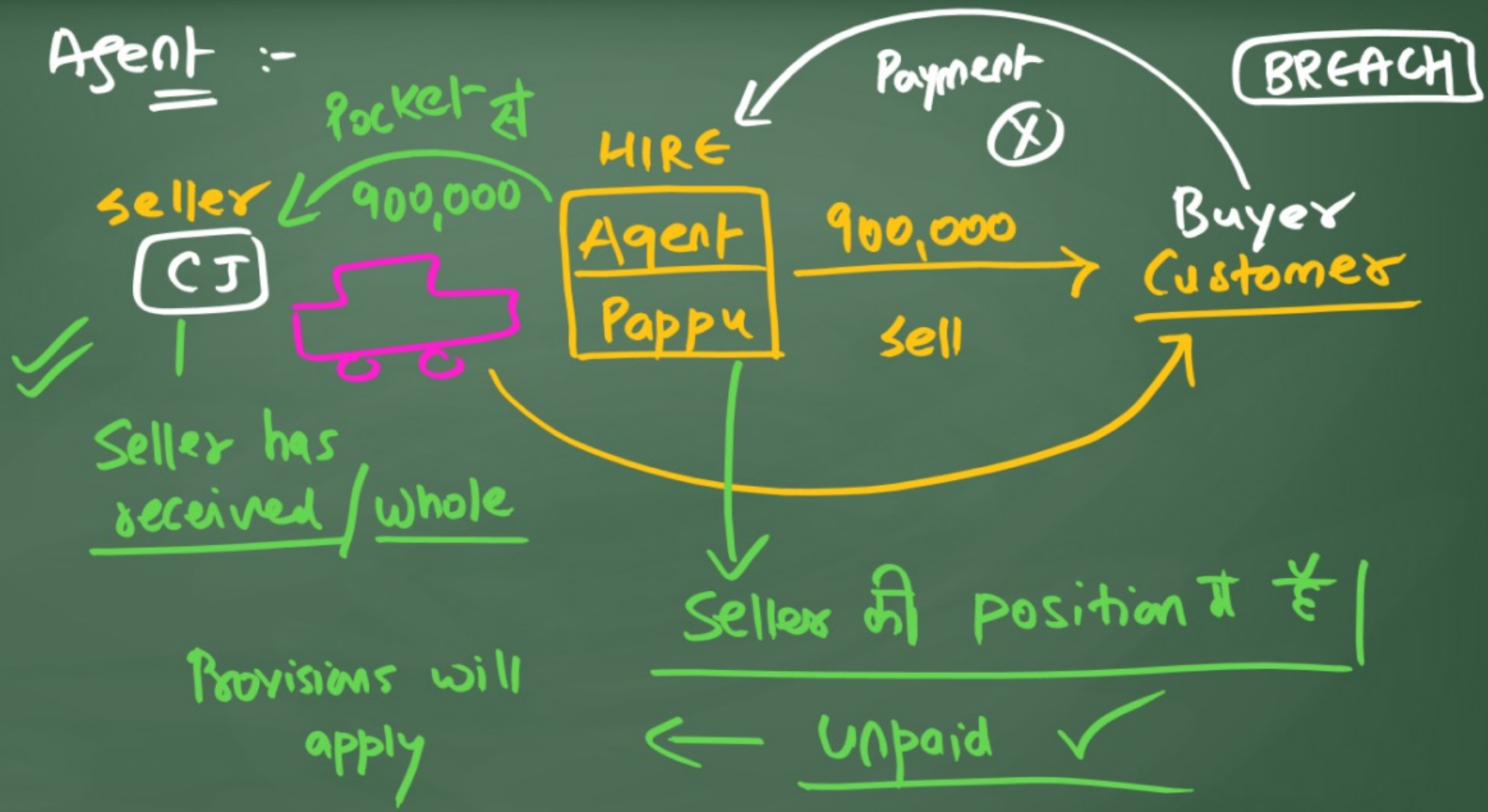
- When the seller is ready and willing to deliver the goods and
- requests the buyer to take delivery, and
- the buyer does not take delivery of the goods
- within a reasonable time after such request
- he is liable to the seller for any loss
- occasioned by his neglect or refusal to take delivery and
- also for a reasonable charge for the care and custody of the goods.



Example

⇒ Agent :-

★ Concept
★ building



★ UNPAID SELLER : SEC. 45 :-

★ In a contract there is a reciprocal promises between the buyer and the seller. Buyer is under an obligation to pay for the goods and when buyer fails / refuses to make the whole payment, seller becomes Unpaid Seller.

When a seller is deemed to be unpaid seller →

(1) When whole of the price is not received.

(2) When cheque / BOE / NI gets dishonoured

(3) Any kind of condition is not fulfilled

(Related to price) ← as per the agreement.

Seller includes any person in the position of the seller.
eg: Agent / consignor etc.

Unpaid seller has immediate rights in such scenarios



Rights of US against the Goods

Factory or



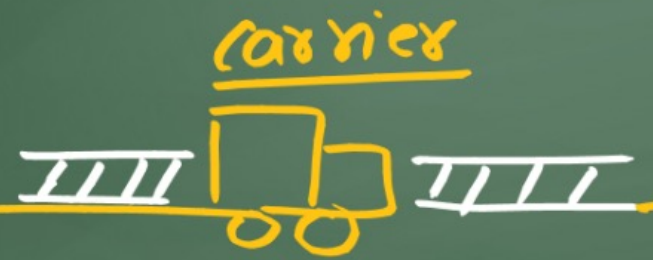
Seller Possession

RETAIN

RIGHT OF

OF

LIEN



out of Seller's possession

REGAIN

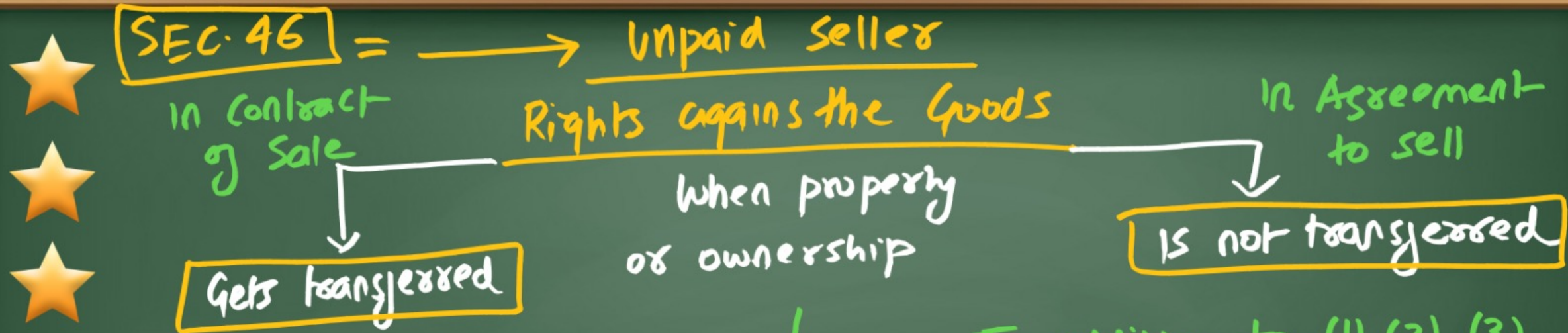
RIGHT OF (SIT)

STOPPAGE IN TRANSIT



Right against the Buyer

Lien & SIT is not available once goods have reached the buyer



By Implication of Law

(1) Right of Lien

(2) Right of SIT.

(3) Right of Re-Sale

In addition to (1) (2) (3)

(4) Right of withholding Delivery

★ RIGHT OF LIEN :-

★ What is a Lien? ⇒ It is a right to keep possession of goods which belong to another person until the price / debt due to seller is discharged.

⇒ SECTION 47 ⇒ An unpaid seller has a right to RETAIN the goods while he is POSSESSION of the goods until the payment is received.

This right is also called as Possessory Lien because once the possession is lost, you cannot exercise Lien.

★ When can we exercise the Right of Lien = Situations.

★ (1) When goods have been sold on cash basis = CASH sale

★ (2) When goods are sold on CREDIT basis but the term of credit has been expired.

(3) When the buyer becomes Insolvent

SECTION 48 = Part delivery :- Unpaid seller has made part delivery of the goods then he can exercise lien on remainder goods

SECTION 49 = Termination of Right of Lien → U.S. loses this right when -

(1) when seller delivers the goods to carrier / bailee w/o reserving ROD

(2) when goods are in possession of buyer / Agent.

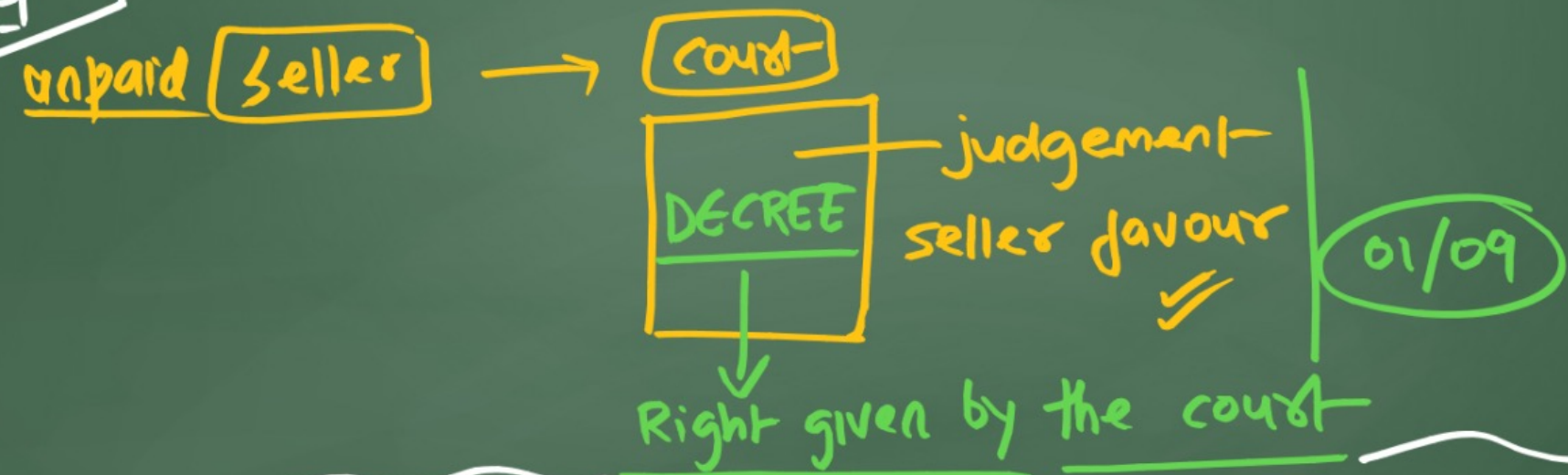
(3) when seller wave off the Right (4) By estoppel - through Conduct

★ Exception

★ Sec. 49

★

until seller receives the payment



This means unpaid seller does not lose the right of Lien even though he has received the decree from the Court.

★ RIGHT OF STOPPAGE IN TRANSIT = SIT

★ SEC. 50 :- This right can be exercised by an unpaid seller

★ when the goods are in transit. This means goods can be stopped in transit to REGAIN possession and retain

the goods until the price is paid.

⇒ SIT is an extension of right of lien because SIT gives power to unpaid seller to regain the possession even after parting with the goods.

⇒ So, using SIT unpaid seller can ask the carrier to return the goods and not to deliver them to buyer as Insolvent has become →

★ To exercise SIT one must fulfil all these conditions

- ★ U] Seller must be Unpaid
- S]
- P - Seller must have parted with the possession of Goods.
- ★ I - Buyer must have become Insolvent
- T - Goods are in Transit

SECTION-51 = Transit दरम्यान दरम्यान ? DURATION

Transit starts when goods are delivered to carrier or bailee for the purpose of transmission to buyer and it ends when the goods reach buyer / Agent.

The right of SIT is lost when transit ends

★ Buyer must be Insolvent to use right of SIT
But in Right of Lien, it is not Compulsory

★ Special cases where transit comes to an end -

- ★ (1) Buyer intercepts (takes delivery before the destination)
- ★ (2) When carrier/bailee acknowledges the buyer that they are holding goods on his behalf.
- ★ (3) When goods are delivered to the carrier / SHIP which is hired / chartered by the buyer, transit will end immediately
- ★ (4) **Part delivery** → If part of the goods are delivered to the buyer then transit ends for the remaining goods as well.
for

★ SECTION 52 :- How SIT is done / affected?

★ Unpaid seller can exercise SIT by taking actual possession or
★ by giving notice to carrier / bailee who has the possession

↓
This notice can be given to the person who is actual possession of the goods or to his principal as well.

(2) After the receiving the notice, carrier / bailee will Re-deliver the goods to the seller or as per his direction.

Expenses of such re-delivery will be borne by the seller only.

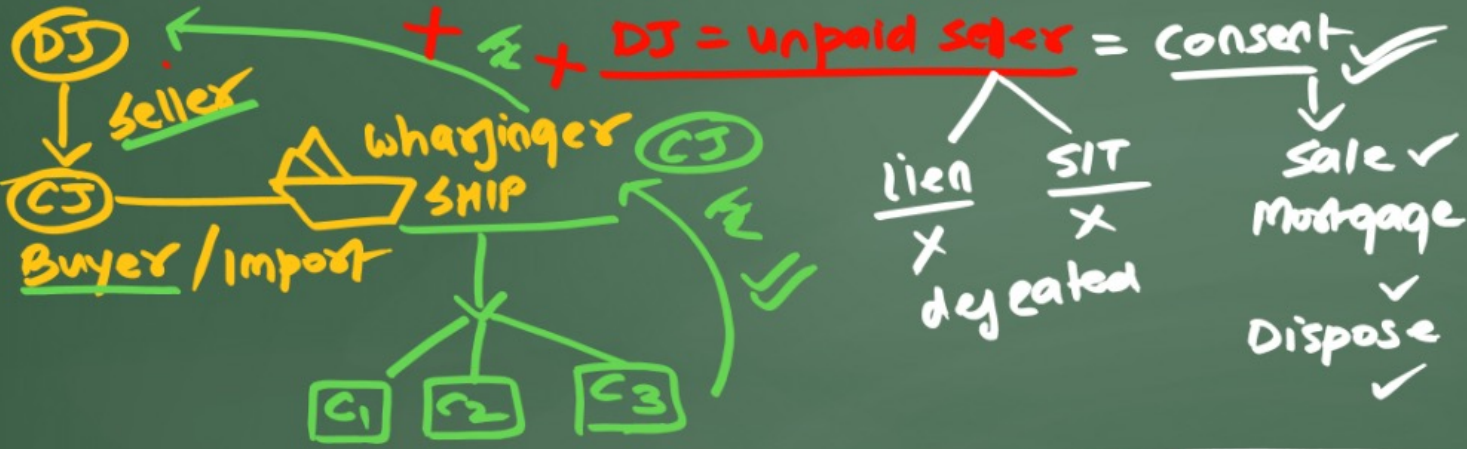
Effect of SIT :- The COS is not rescinded when seller uses SIT
The contract remains in force [Buyer can ask for delivery on]
[Payment of Price.]



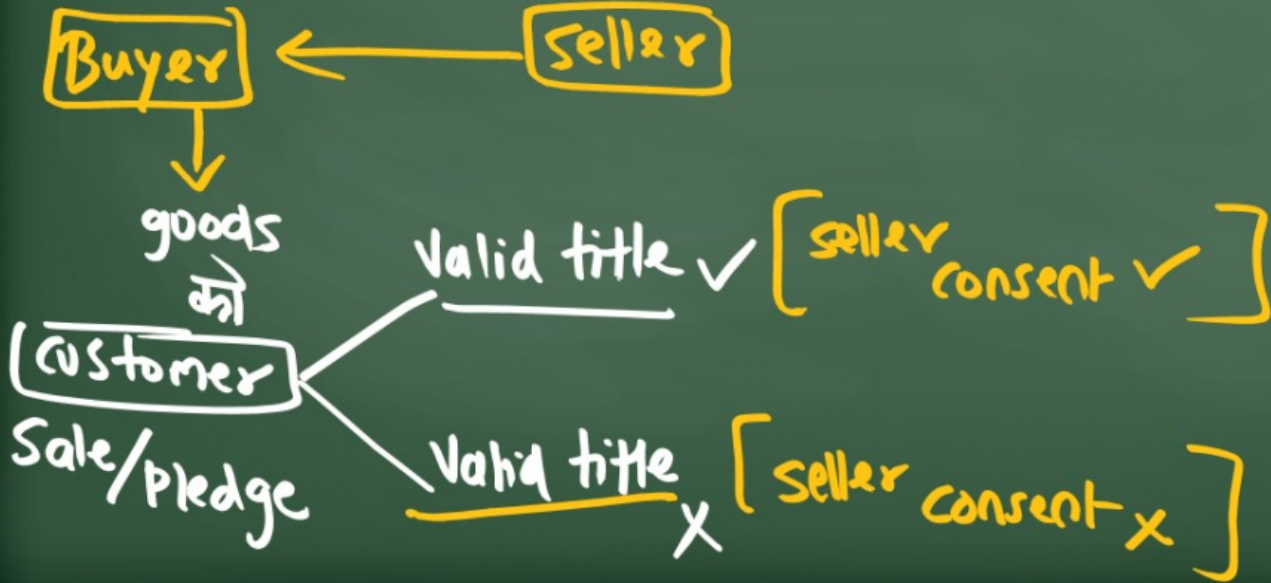
Aspect	Right of Lien	Right of Stoppage in Transit
Possession	Seller <u>retains</u> possession of goods.	Seller <u>regains</u> possession after sending goods.
Conditions	Seller <u>has</u> <u>the goods</u> . <i>Possession</i>	Seller sent the goods; goods <u>with carrier</u> , <u>buyer hasn't received them</u> .
<u>Insolvency</u>	Can be exercised <u>even if the buyer isn't insolvent</u> .	<u>Applies only</u> if the buyer is insolvent. <i>MUST.</i>
<u>Timing</u>	<u>Ends</u> when goods <u>leave</u> the seller's <u>possession</u> .	<u>Starts</u> when <u>lien</u> ends; <u>ends</u> when <u>buyer gets the goods</u> .



SECTION 53 :- SIT/Lien = ~~द्वैत~~? defeat?



WITHOUT THE DOC. OF TITLE



WITH DOC. OF TITLE



★ Effect of Sub-Sale or Pledge by the Buyer :- SEC. 53.

★ → If the seller has assented (gave his consent) then the right of Lien & SIT are defeated.

★ → But if the seller has not given the consent to sub-sale or pledge or dispose the goods then right of Lien and SIT will as it is and will not be affected.

⇒ In case of sub-sale / Pledge through transfer of DOT then SIT will be defeated.

These are the cases where Unpaid seller's right of Lien & SIT are defeated.

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RIGHT OF RE-SALE



The right of resale is a very valuable right given to an unpaid seller.

lien / SIT

In the absence of this right, the unpaid seller's other rights against the goods that is lien and the stoppage in transit would not have been of much use x

because these rights only entitled the unpaid seller to retain the goods until paid by the buyer.

Right of Re-sale is a valuable right because without this right, other rights of an US which are lien & SIT are of no use.



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Is notice to buyer required or not in case of Re-sale by Seller

Re-sale

CASES where Notice is not required by Seller

Cases where seller is required to give notice to buyer

Explicitly Contract - Expressly mention

① that NO NOTICE IS REQUIRED.

② When goods are of Perishable nature - No Notice Required. Seller can claim damages also.

Gives the Notice

- Recover the loss if any
- Profit can be kept by the Seller

Fails to give Notice

- Cannot claim the losses from buyer
- Cannot keep the profit
- Return to OG Buyer

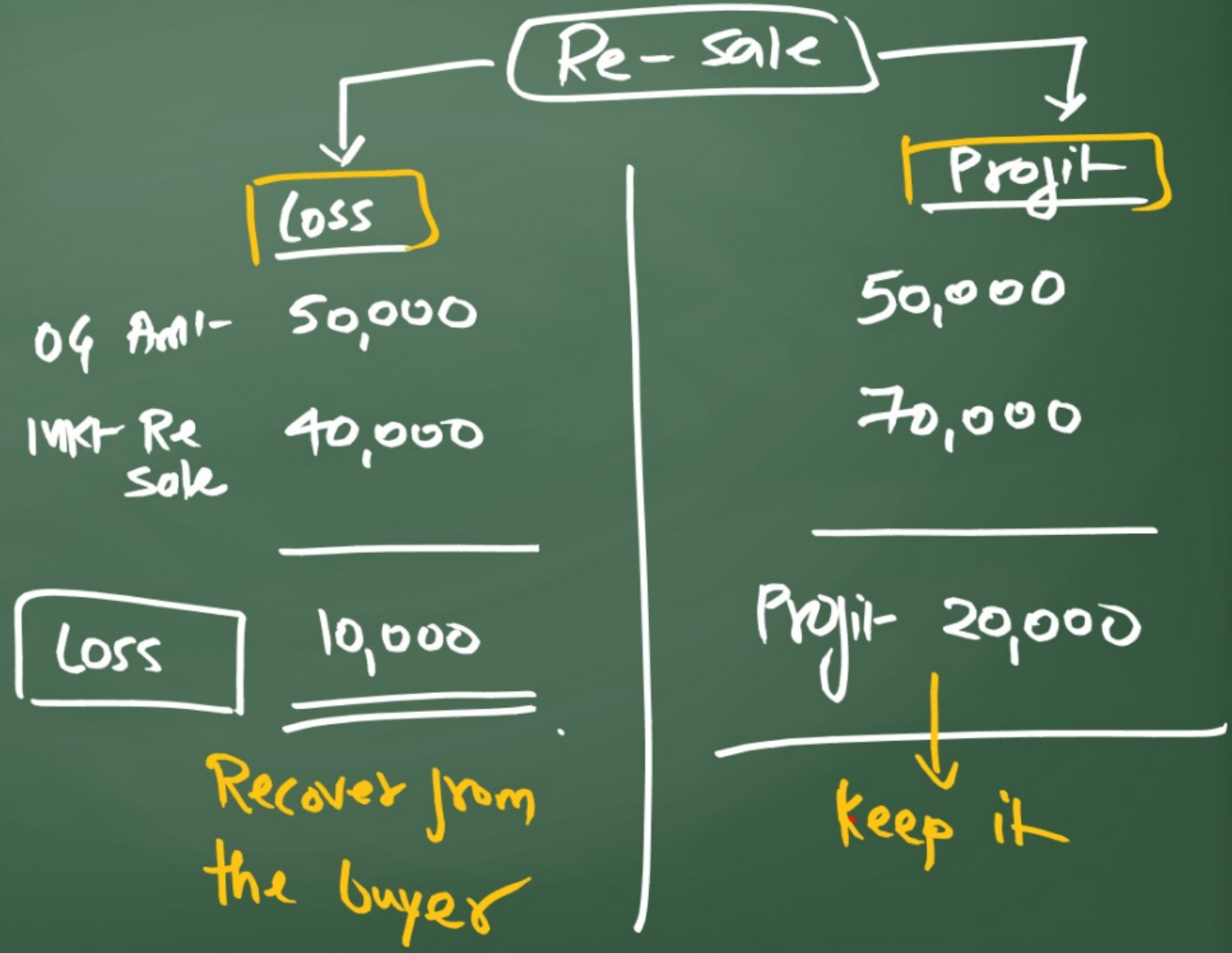
★ Concept Building :-

★ example :-

★ NOTICE -
 NOTICE -
 Resale



ONLY IF US - GIVES NOTICE.
 Unpaid seller





Good Title to Subsequent Buyer

If the seller resells after exercising lien or stoppage in transit:

The subsequent buyer gets **good title**, even if the **original buyer** wasn't notified. ~~X~~ **YES.** ✓ **of Buyer**

LAST RIGHT OF AN UNPAID SELLER AGAINST THE GOODS -
WHEN THE PROPERTY HASN'T PASSED TO THE BUYER X

वैकल्य / similar

Quasi-Lien

WITHOLDING RIGHT

Delivery

If the property in goods hasn't passed to the buyer, the seller can withhold delivery (similar to a lien). ✓

This is an **additional right** used in case of an agreement to sell. **A2S**



★ Rights of unpaid seller against the Buyer - P.I.D.A

★ These rights are in addition to rights against goods. These are called Right in personam :-

★ P 55 (1) Suit for PRICE :- When buyer neglects / refuses to pay the price in case of COS or A2S, then seller may sue him for PRICE

I 61 (2) Suit for Interest :- If there is a specific agreement then seller can sue for interest from the due date & if there is no Agree. then seller can sue for interest from the date he has notified buyer

D 56 (3) Suit for Damages :- When buyer wrongfully refuses / neglects the acceptance or payment of the goods, then seller can sue him for damages

A 60 (4) Repudiation of contract by buyer before due date :- then seller may Anticipatory Breach :- treat the contract cancelled & sue for damages

★ Remedies of Buyer against the seller :-

★ Breach of Contract by the Seller :-

★ (1) P = Performance = specific performance can be claimed by the Buyer when goods are of special nature or when the damages are not adequate

(2) I = Suit for Interest -

(3) D = Suit for damages because of non-delivery by seller

(4) A = Anticipatory breach by the seller.

(5) = In case of BOW and cases where BOC is treated as BOW, Buyer can claim damages.

Where goods are sold in lots

Each lot is prima facie deemed to be the subject of a separate contract of sale.

Completion of the contract of sale

- The sale is complete when the auctioneer announces its completion by:
 - Fall of hammer or ✓
 - Any other customary manner.
- Until such announcement, any bidder may retract their bid.

Right to bid may be reserved

- Right to bid may be expressly reserved by or on behalf of the seller. ✓ (Notijy to all)
- If reserved, the seller or any one person on their behalf may bid at the auction.





If the sale is not notified to include a right to bid on behalf of the seller -

- The seller cannot bid themselves. X
- The seller cannot employ anyone to bid on their behalf. X
- The auctioneer cannot knowingly accept bids from the seller or their representative. X

• **Any sale violating this rule may be treated as fraudulent by the buyer.**

Where the sale is not notified by the seller ...

Fraud

Reserved price

The sale may be notified as being subject to a **reserve or upset price**. YES.

Pretended bidding

- If the seller uses pretended bidding to raise the price: X
- The sale is voidable at the option of the buyer.



Thank
You