

Module 2: Sale of Goods Act 1930

8 Contract for Sale of Goods, Essentials of a Contract of Sale, Conditions and Warranties

Meaning and Definition (Section 4)

According to **Section 4(1)** of the Sale of Goods Act, 1930, 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. The term 'Contract of Sale' is a generic term that comprises both an immediate 'Sale' and a future 'Agreement to Sell'.

Structural Distinction: Sale vs. Agreement to Sell

Basis of Comparison	Sale	Agreement to Sell
Transfer of Property	The ownership (property in goods) passes immediately from the seller to the buyer at the time of contract formation.	The transfer of ownership takes place at a future date or is subject to the fulfillment of specific conditions.
Nature of Contract	It is an <i>Executed Contract</i> (fully performed legal status).	It is an <i>Executory Contract</i> (obligations remain outstanding).
Risk of Loss	Risk follows ownership. If goods are damaged, the buyer bears the financial loss even if goods are in the seller's possession.	Risk remains entirely with the seller since ownership has not shifted yet, regardless of physical possession.

Basis of Comparison	Sale	Agreement to Sell
Right to Sue	The seller can sue the buyer directly for the recovery of the unpaid price of the goods.	The seller can only sue for damages caused by non-acceptance, not for the absolute full monetary price.

Essentials of a Valid Contract of Sale

To establish a statutory contract under this Act, five specific essential elements must coexist simultaneously:

- **1. Two Distinct Parties:** There must be a clear bilateral presence of a buyer and a seller. A person cannot buy their own goods.
- **2. Subject Matter Must Be Goods (Section 2(7)):** It applies exclusively to 'Goods', defined as any kind of movable property other than actionable claims and money. It includes stock, shares, growing crops, and things attached to land which are agreed to be severed before sale.
- **3. Money Price Consideration:** The consideration must be money. If goods are exchanged exclusively for goods, it is Barter; if money is mixed with a goods exchange, it falls under the Sale of Goods Act.
- **4. Transfer of General Property:** The contract must aim to transfer 'General Property' (Absolute Ownership) rather than merely transferring 'Special Property' (such as temporary possession via a pledge or bailment).
- **5. Standard Contractual Essentials:** Must satisfy all prerequisites of Section 10 of the Indian Contract Act (Free consent, capacity, legality, etc.).

Conditions and Warranties (Section 12)

A stipulation in a contract of sale with reference to goods may be a condition or a warranty, dictated entirely by its structural importance to the core contract objective.

Condition (Section 12(2)): A stipulation essential to the main purpose of the contract, the breach of which gives the aggrieved party an immediate right to treat the contract as completely repudiated (canceled) and reject the goods entirely.

Warranty (Section 12(3)): A stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for financial damages but does *not* grant a right to reject the goods or repudiate the contract.

Implied Conditions and Warranties

The law automatically injects several unwritten protective clauses into every transaction unless explicitly excluded by the parties:

- **Implied Condition as to Title (Section 14(a)):** The law presumes the seller has a lawful right to sell the goods. If the seller's title turns out to be defective, the buyer can reject the goods and demand a full refund.
- **Implied Condition in Sale by Description (Section 15):** When goods are sold by description, they must match the description perfectly. If you order a "2024 Model Laptop", delivery of a 2023 variant breaches an implied condition.
- **Implied Condition as to Sample (Section 17):** The bulk of the delivery must match the quality of the sample provided, and the buyer must have a fair opportunity to inspect and compare them.
- **Implied Warranty of Quiet Possession (Section 14(b)):** A guarantee that the buyer shall have and enjoy quiet, uninterrupted possession of the purchased goods without interference from any third party claiming superior rights.

9 Caveat Emptor – Sale by non-owners – Rules as to Delivery of goods – Un Paid Seller and his rights

The Doctrine of Caveat Emptor (Section 16)

The maxim **Caveat Emptor** translates to "**Let the Buyer Beware.**" It establishes the traditional legal rule that the seller is under no statutory obligation to point out the inherent defects of the goods they are selling. It is the buyer's absolute duty to apply reasonable care, skill, and judgment to inspect the goods thoroughly before purchasing.

Statutory Exceptions to the Doctrine: The rule does not protect a seller under several operational conditions:

- **Fitness for Specified Purpose:** If the buyer explicitly communicates the specific purpose of the purchase, relies on the seller's skill/judgment, and the seller deals in those goods, an implied condition arises that the goods shall be fit for that purpose.
- **Merchantable Quality:** Goods bought by description must be free from hidden (latent) structural defects that render them commercially unusable.
- **Fraud or Misrepresentation:** If the seller actively conceals a defect or makes false statements, the doctrine of Caveat Emptor is entirely voided.

Sale by Non-Owners: Nemo Dat Quod Non Habet (Section 27)

The fundamental rule of property law states: "**Nemo dat quod non habet**"—No one can transfer a better title to goods than they themselves possess. If a thief sells a stolen phone to an innocent buyer, the true owner can recover it without paying compensation, because the thief had zero title to pass.

Statutory Exceptions (Valid Titles Passed by Non-Owners): To protect innocent commercial transactions, the law validates title transfers by non-owners in the following situations:

- **1. Sale by a Mercantile Agent (Section 27 Proviso):** Valid if an agent has possession of the goods with the owner's consent and sells them in the ordinary course of business to a buyer acting in good faith.
- **2. Sale by one of Joint Owners (Section 28):** If one co-owner has sole possession of the goods with the consent of the other co-owners, a sale by them to an innocent buyer passes full ownership.
- **3. Sale by Person under Voidable Contract (Section 29):** If a person acquires goods via fraud (making the contract voidable under Sec 19) and sells them *before* the contract is officially canceled by the original owner, an innocent buyer gets a perfect title.
- **4. Sale by Seller or Buyer in Possession after Sale (Section 30):** If a seller keeps physical possession of goods after selling them and wrongfully resells them to a second innocent buyer, that second buyer receives a completely valid legal title.

Rules as to Delivery of Goods (Sections 31 - 44)

Delivery is defined as the voluntary transfer of physical or constructive possession from one person to another. The Act mandates several strict execution rules:

- **Concurrent Conditions (Section 32):** Delivery of goods and payment of price are concurrent conditions. The seller must be ready to deliver, and the buyer must be ready to pay simultaneously.
- **Wrong Quantity Delivery (Section 37):** If a seller delivers a **Short Quantity**, the buyer can reject the whole lot or pay for the accepted portion at the contract rate. If they deliver an **Excess Quantity**, the buyer can accept the contracted amount and reject the rest, or accept the whole lot and pay for it. If they deliver **Mixed Goods**, the buyer can accept the aligned items and reject the rest, or reject the entire delivery.
- **Place and Time:** In the absence of a specific agreement, the default legal place of delivery is the location where the goods are physically situated at the time of the sale.

Unpaid Seller and His Rights (Sections 45 - 54)

According to **Section 45**, a seller is deemed "Unpaid" when the entirety of the price has not been paid or tendered, or when a negotiable instrument (like a check) was received as conditional payment but was subsequently dishonored.

The law grants an unpaid seller two powerful sets of protective statutory rights:

1. Rights of an Unpaid Seller Against the Physical Goods

Right of Lien (Sec 47)

The right to retain physical possession of the goods at the warehouse until the full price is paid. Exercisable when goods are sold without credit terms, when the credit term has expired, or when the buyer becomes insolvent. Requires physical possession.

Stoppage in Transit (Sec 50)

If the seller has parted with possession and the goods are with an independent carrier, the seller can halt the shipment mid-journey. This right is triggered *only* when the buyer becomes completely insolvent.

Right of Resale (Sec 54)

The seller can resell the goods to a third party if: the goods are perishable, the seller gives explicit notice of their intent to resell and the buyer fails to pay within a reasonable time, or the seller explicitly reserved a right of resale.

2. Rights of an Unpaid Seller Against the Buyer Personally (Suit for Breach)

- **Suit for Price (Section 55):** If ownership has passed to the buyer and they wrongfully refuse to pay, the seller can sue directly for the full monetary price of the goods.

- **Suit for Damages for Non-Acceptance (Section 56):** If the buyer wrongfully refuses to accept and pay for the goods, the seller can sue for damages representing the financial loss suffered (typically the market-contract price difference).
- **Suit for Interest (Section 61):** The seller can claim interest on the unpaid amount from the date the price became due.

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