



Study Notes

Sales of Goods Act, 1930

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Introduction

- The contract relating to the sale and purchase of goods is governed by the Sale of Goods Act, 1930
- Prior to 1930, the law relating to the sale and purchase of goods was a part of the Indian Contract Act, 1872
- In the year 1930, section 75 to 123 of the contract act was repealed and a separate Act known as the Sales of Goods Act, 1930 (the “Act”) was passed
- The Act consists of 7 Chapters and 64 Sections

Chapter I Preliminary

- The Act extends to the whole of India
- It came into force on 1st of July, 1930

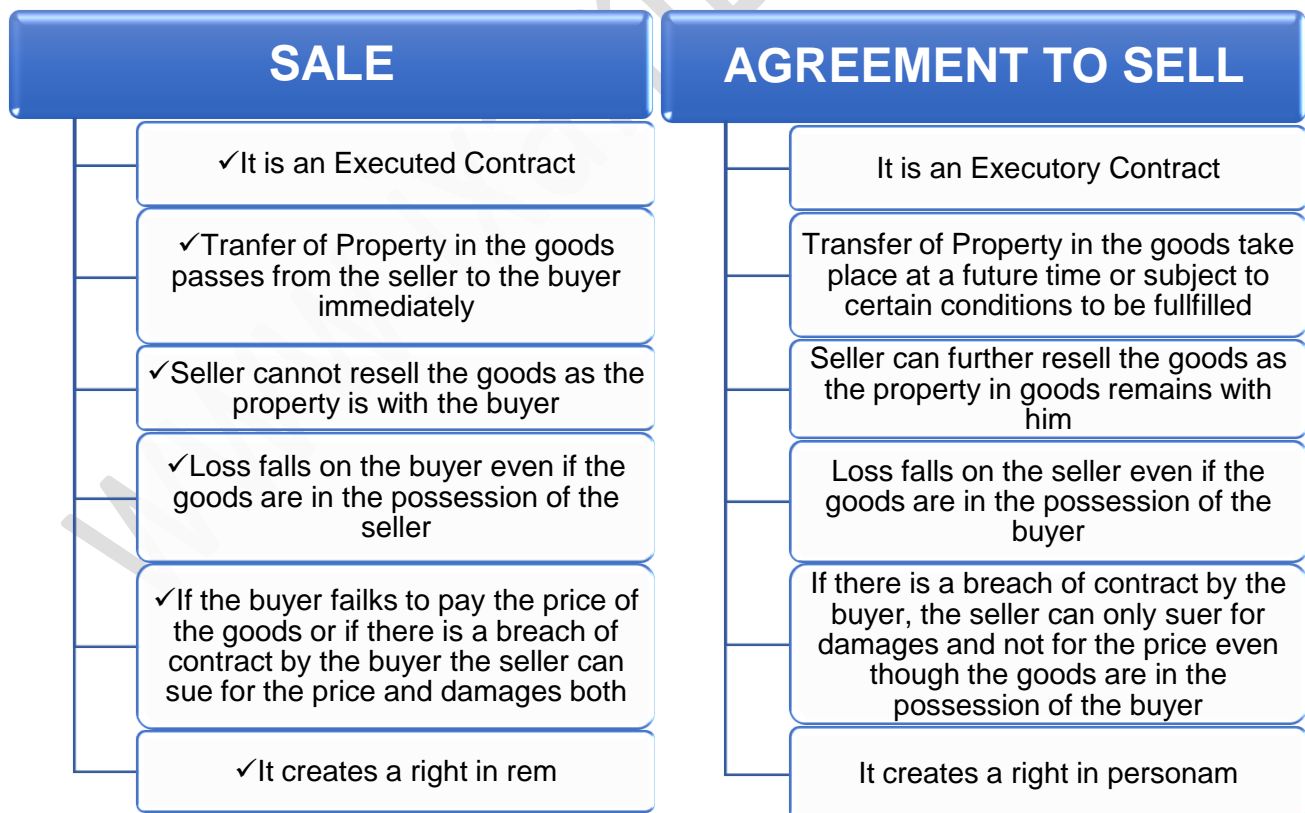
Some Important Definitions

- **Buyer** section 2(1) - means a person who buys or agrees to buy goods
- **Delivery** section 2(2) - means voluntary transfer of possession from one person to another
- **Document of title to goods** section 2(4) - includes a bill of lading, dockwarrant, warehouse keeper's certificate, wharfingers' certificate, railway receipt, multimodal transport document, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented
- **Fault** section 2(5) - means wrongful act or default
- **Future goods** section 2(6) - means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale
- **Goods** section 2(7) - means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale
- **Mercantile Agent** section 2(9) - means a mercantile agent having in the customary course of business 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) - means the general property in goods, and not merely a special property
- **Specific Goods** section 2(14) - means goods identified and agreed upon at the time a contract of sale is made

Chapter II Formation of the Contract

- **Section 4 Sale and Agreement to Sell**
 - 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

- There may be a contract of sale between one part-owner and another
- Essential elements of a contract of sale
 - ✓ Parties- Buyer and Seller
 - ✓ It must be absolute or conditional
 - ✓ Goods- It must be the subject matter of the contract
 - ✓ Price- The consideration for the contract of sale is called the price, which must be money and must be paid or promised
 - ✓ There must be a transfer in goods from the seller to the buyer
 - ✓ Essentials of a valid Contract- All the essentials of a valid contract must be present
- When the property in the goods is transferred from the seller to the buyer, the contract is called a sale
- When 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
- 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



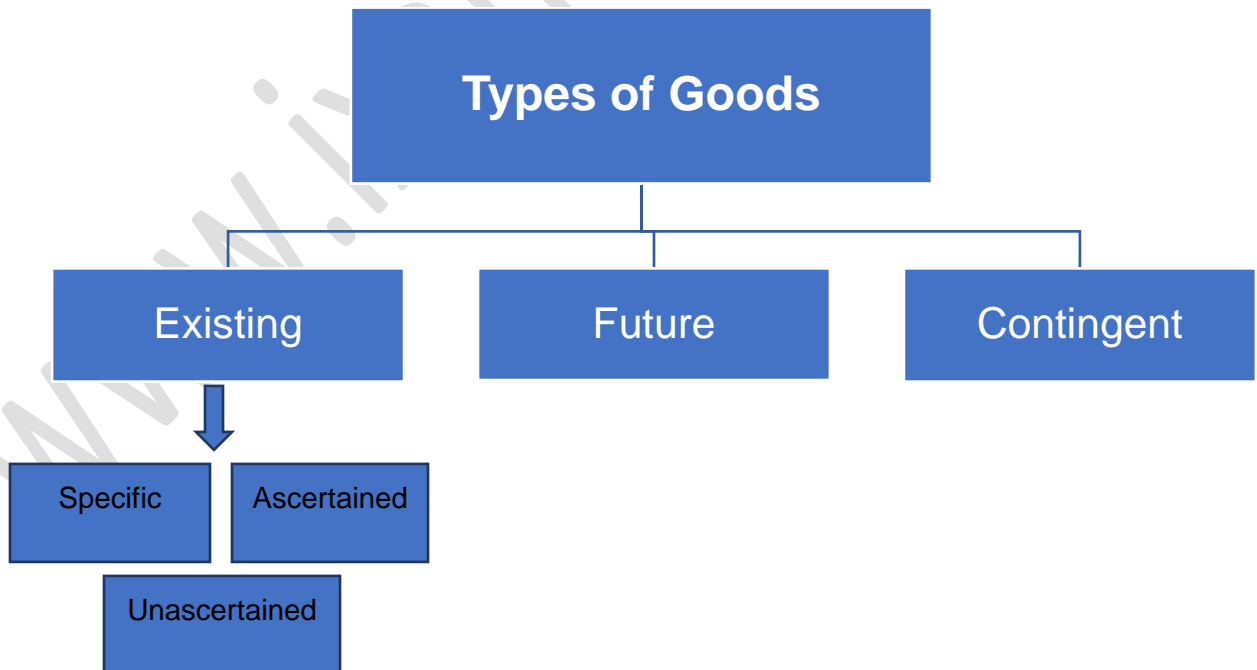
be transferred

- **Section 5 Contract of Sale how made**

- 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
- A contract of sale-
 - ✓ may be made in writing or
 - ✓ by word of mouth, or
 - ✓ partly in writing and partly by word of mouth or
 - ✓ may be implied from the conduct of the parties

- **Section 6 Existing or Future Goods**

- Goods form the subject matter of a contract of sale and has been defined as every kind of movable property other than actionable claims and money.



- The goods which form the subject matter of the contract of sale may be either existing goods or future goods or contingent goods

- **Existing Goods** are the goods which are owned or possessed by the seller at the time of the sale. Only existing goods can be the subject of a sale. They can be further classified as under: -
 - ✓ Specific Goods – the goods which are identified and agreed upon at the time of a contract of sale is made
 - ✓ Ascertained Goods – the goods which become ascertained subsequent to the formation of a contract of sale.
 - ✓ Unascertained Goods – the goods which are not identified and agreed upon at the time of a contract of sale. They are defined only by description and may form a part of a lot
 - **Future Goods** – the goods which the seller does not possess at the time of the contract of sale but which will be manufactured or produced or acquired by him after the making of a contract of sale
 - ✓ A contract of present sale of future goods though expressed as an actual sale, purports to operate as an agreement to sell the goods and not a sale because the ownership of a thing cannot be transferred before that thing comes into existence.
 - **Contingent Goods** – it is a type of future good the acquisition of which by the seller depends upon a contingency which may or may not happen
- **Section 7 Goods perishing before making of contract & Section 8 Goods perishing before sale but after agreement to sell**
 - These two sections deal with the effect of perishing of goods on the rights and obligations of the parties to a contract of sale
 - The word perishing not only means the physical destruction of goods but it also covers-
 - ✓ Damages to goods so that the goods have ceased to exist in the very commercial sense which means that their merchantable character as such has been lost
 - ✓ Loss of goods by theft
 - ✓ Good lawfully requisitioned by the government
 - ✓ Only the perishing of specific and ascertained goods affect a contract of sale
 - ✓ If unascertained goods form the subject matter of a contract of sale, their perishing does not affect the contract and the seller is bound to supply the goods from wherever he likes, otherwise he will be liable for the breach of contract
 - Perishing of the whole of the goods- where specific goods form the subject matter of a contract of sale both sale and agreement to sell, and they without the knowledge of the seller, perish at or before the time of the contract, then the contract is void
 - Perishing of only a part of the goods- where in a contract of sale of specific goods only a part of the goods is destroyed or damaged, the effect of perishing will depend upon whether the contract is entire or divisible. If it is entire i.e.,

indivisible and part only a part of the goods have perished then the contract is void and the part available in good condition must be accepted by the buyer

- 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. Thus, the contract of sale becomes void and both the parties are excused from the performance of the contract

- **Section 9 Ascertainment of Price**

- Price forms an essential part of the contract and must be expressed in money
- It is the consideration for the transfer or agreement to transfer the property in goods from the seller to the buyer
- It is not essential that the price should be fixed at the time of sale.
- 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. In the absence of this the buyer must pay to the seller a reasonable price and it is a question of fact.
- However, in the absence of the above, the e buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case

- **Section 12 Condition and Warranty**

- A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty
- A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated. Its non - fulfilment upsets the very basis of the contract
- 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
- Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract
- A stipulation may be a condition, though called a warranty in the contract

- **Section 13 When condition to be treated as warranty**

- Where a contract of sale is –
 - ✓ subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated
 - ✓ not severable and the buyer has accepted the goods or part thereof, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and

treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect

- This shall not affect any condition or warranty the fulfilment of which is excused by law by reason of impossibility or otherwise

- **Section 14 Implied undertaking as to title, etc.**

- In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is-
 - ✓ an implied condition on the part of the seller that-
 - in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;
 - ✓ an implied warranty that the buyer shall have and enjoy quiet possession of the goods;
 - ✓ an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made

- **Section 15 Sale by description**

- Where there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description
- If the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description

- **Section 16 Implied condition as to quality or fitness**

- Caveat Emptor means "Let the buyer beware"- In a contract of sale of goods the seller is under no duty to reveal unflattering truths about the goods sold
- Therefore, when a person buys some goods, he must examine them thoroughly
- If the goods turn out to be defective or do not suit the buyer's purpose or if he depends upon his own skill and judgement and makes a bad selection, he cannot blame anyone except himself
- Thus, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows-
 - ✓ Fitness for buyer's purpose- Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose. In the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose

- ✓ Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality. if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed
- ✓ An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade
- ✓ An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith

Chapter III Effect of the Contract

➤ Section 18 – 25 Transfer of property as between seller and buyer

- **Section 18 Goods must be ascertained**
 - Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained
- **Section 19 Property passes when intended to pass**
 - Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred
 - For the purpose of ascertaining the intention of the parties' regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case
 - Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer
- **Section 20 Specific goods in a deliverable state and Section 21 Specific goods to be put into a deliverable state**
 - Where there is an unconditional contract for the sale of specific goods in a deliverable state-
 - ✓ the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed
 - Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state-
 - ✓ the property does not pass until such thing is done and the buyer has notice thereof
- **Section 22 Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price**

- Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price-
 - ✓ the property does not pass until such act or thing is done and the buyer has notice thereof
- **Section 23 Sale of unascertained goods and appropriation**
 - Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer
 - Such assent may be express or implied, and may be given either before or after the appropriation is made
 - Delivery to carrier- Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract
- **Section 24 Goods sent on approval or on sale or return**
 - When goods are delivered to the buyer on approval or “on sale or return” or other similar terms, the property therein passes to the buyer
 - ✓ when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
 - ✓ if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time
- **Section 25 Reservation of right of disposal**
 - Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract-
 - ✓ the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled
 - ✓ In such case, notwithstanding the delivery of the goods to a buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled
 - Where goods are shipped or delivered to a railway administration for carriage by railway and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, the seller is prima facie deemed to reserve the right of disposal
 - Where the seller of goods draws on the buyer for the price and transmits to the buyer the bill of exchange together with the bill of lading or, as the case may be,

the railway receipt, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading or the railway receipt if he does not honour the bill of exchange; and, if he wrongfully retains the bill of lading or the railway receipt, the property in the goods does not pass to him

- **Section 26 Risk prima facie passes with property**

- The goods remain at the seller's risk until the property therein is transferred to the buyer
- When the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not
- Where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault
- This shall not affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party

➤ **Transfer of Title Section 27 – 30**

- **Section 27 Sale by person not the owner**

- If the goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner
 - ✓ the buyer acquires no better title to the goods than the seller had,
 - ✓ unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell
- Where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell

- **Section 28 Sale by Joint Owners**

- If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods-
 - ✓ is transferred to any person who buys them of such joint owner in good faith and
 - ✓ has not at the time of the contract of sale notice that the seller has not authority to sell

- **Section 29 Sale by person in possession under voidable contract**

- When the seller of goods has obtained possession under a contract voidable, but the contract has not been rescinded at the time of the sale, the buyer acquires a

good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title

- **Section 30 Seller or buyer in possession after sale**
 - Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same
 - Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist

Chapter IV Performance of the Contract

- **Section 31 Duties, of seller and buyer**
 - It is the duty to the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale
- **Section 32 Payment and delivery are concurrent conditions**
 - Unless otherwise agreed; delivery of the goods and payment of the price are concurrent conditions-
 - ✓ the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and
 - ✓ the buyer shall be ready and willing to pay the price in exchange for possession of the goods
- **Section 33 Delivery**
 - Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf
- **Section 34 – 41 Rules as to delivery of goods**
 - A delivery of part of goods, taking place in the course of the delivery of the whole, has the same effect for the purpose of passing the property in such goods, as a delivery of the whole

- But such delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder, it will be treated a spart delivery only
 - The seller of goods is not obliged to deliver them until the buyer applies for delivery; unless otherwise agreed
 - If there is no contract to the contrary goods must be delivered-
 - ✓ at a place where they were at the time of the sale and
 - ✓ the goods agreed to be sold are required to be delivered at the place at which they are at the time of the agreement to sell, or,
 - If not then in existence, at the place at which they are manufactured or produced
When the time for sending the goods is not fixed by the parties, the seller must send them within a reasonable time; which is a question of fact
 - Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf
 - The expenses of and incidental to putting the goods into deliverable state must be borne by the seller, in the absence of the contract to the contrary. Expenses for obtaining the delivery are to be borne by the buyer
 - In case of tender of lesser quantity of goods, the buyer may either accept the same and pay for it at the contract rate or reject it
 - In case of excess delivery, the buyer may accept or reject the deliver, if he accepts the whole of the goods; he shall pay for them at the contract rate
 - In case the seller makes a delivery of the goods contracted mixed with the goods of a different description, the buyer may accept the relevant goods and reject the rest or the whole
 - The buyer is not bound to accept the delivery in instalments. The rights and liabilities in case of delivery by instalments and payments thereof may be determined by the parties to the contract
 - Subject to the terms of the contract, the delivery of the goods to the carrier for the transmission to the buyer is prima facie deemed to be delivery to the buyer
 - Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit
 - Where goods are delivered to the buyer who has not previously examined them, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract. Unless the parties agree otherwise, the seller is bound, on request to afford the buyer a reasonable opportunity of examining the 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
- **Section 42 Acceptance**

- The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them

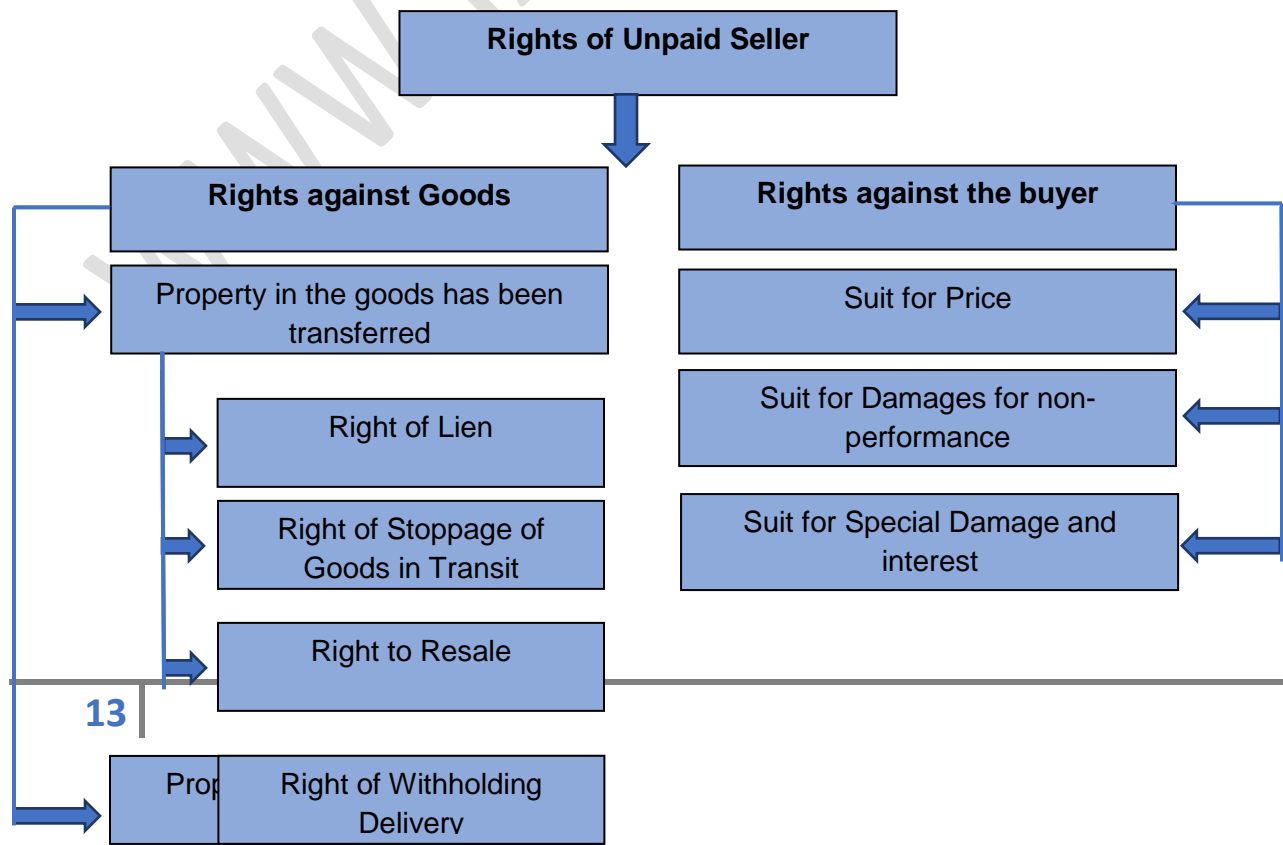
Chapter V Rights of Unpaid Seller

• **Section 45 Unpaid Seller**

- A seller of the goods is deemed to be an unpaid seller when-
 - ✓ when the whole of the price has not been paid or tendered
 - ✓ when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise

• **Section 46 Rights of unpaid seller**

- Where the property in the goods may have passed to the buyer, the unpaid seller has by implication of law –
 - ✓ a lien on the goods for the price while he is in possession of them;
 - ✓ in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;
 - ✓ a right of re-sale as limited by this Act
- Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies,
 - ✓ a right of withholding delivery similar to and co-extensive with his rights of lien and
 - ✓ stoppage in transit where the property has passed to the buyer



- **Section 47 Seller's Right of Lien**

- The unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely: -
 - ✓ where the goods have been sold without any stipulation as to credit;
 - ✓ where the goods have been sold on credit, but the term of credit has expired;
 - ✓ where the buyer becomes insolvent
- The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer

- **Section 49 Termination of Lien**

- The unpaid seller of goods loses his lien thereon:
 - ✓ when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
 - ✓ when the buyer or his agent lawfully obtains possession of the goods;
 - ✓ by waiver thereof
- The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods

- **Section 50 Right of stoppage in transit**

- When the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit.
- He may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price
- The right to stoppage in transit can be exercised only when the following conditions are fulfilled-
 - ✓ The seller must be unpaid
 - ✓ He must have parted with the possession of goods
 - ✓ The goods are in transit
 - ✓ The buyer has become insolvent
 - ✓ The right is subject to the provisions of this Act

- **Section 52 How stoppage in transit is effected**
 - The unpaid seller may exercise his right of stoppage in transit either by-
 - ✓ taking actual possession of the goods, or
 - ✓ by giving notice of his claim to the carrier or other bailee in whose possession the goods are
 - Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer
 - When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller

- **Section 53 Effect of sub-sale or pledge by buyer**
 - The unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto
 - Where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way a sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee
 - Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer

Chapter VI Suit for Breach of Contract

- **Section 55 Suit for price**
 - Where under a contract of sale-
 - ✓ the property in the goods has passed to the buyer and he wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods
 - ✓ the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract

- **Section 56 Damages for Non-Acceptance & Section 57 Damages for Non-Delivery**
 - Where the buyer wrongfully neglects or refuses to-
 - ✓ accept and pay for the goods, the seller may sue him for damages for non-acceptance
 - Where the seller wrongfully neglects or refuses to-
 - ✓ deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery
- **Section 58 Specific Performance**
 - Subject to the provisions of Chapter II of the Specific Relief Act, 1877, in any suit for breach of contract to deliver specific or ascertained goods, the Court may, if it thinks fit, on the application of the plaintiff, by its decree direct that-
 - ✓ the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages
 - The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the decree
- **Section 60 Remedy for Breach of Warranty**
 - Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may-
 - ✓ set up against the seller the breach of warranty in diminution or extinction of the price; or
 - ✓ sue the seller for damages for breach of warranty
 - The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage
- **Section 61 Interest by way of Damages and Special Damages**
 - The seller or the buyer shall have the right to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed
 - In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price-
 - ✓ to the seller in a suit by him for the amount of the price— from the date of the tender of the goods or from the date on which the price was payable;
 - ✓ to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—from the date on which the payment was made

Chapter VII Miscellaneous

- **Section 64 Auction sale**

- It is a mode of selling the property by inviting bids publicly and the property is sold to the highest bidder
- In case of sale by Auction the following rules apply-
 - ✓ Where goods are put up for sale in lots, each lot is prima facie deemed to be the subject of a separate contract of sale;
 - ✓ the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;
 - ✓ a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;
 - ✓ where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;
 - ✓ the sale may be notified to be subject to a reserved or upset, price;
 - ✓ if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer