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Review Document
Sale of Goods Act, 1930

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Sale of Goods Act, 1930

Significance

The Sale of Goods Act, 1930 is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.”

Objective

The Sale of Goods Act lays down a small number of compulsory legal rules concerned with an array of presumptions and implied terms, which aim to reflect the commercial expectations in the most commonly agreed sales contracts. In the absence of contrary agreement these terms will govern a contract within the Act’s remit.

Important provisions

A contract of sale is a legal contract and exchange of goods, services or property to be exchanged from seller to buyer for an agreed upon value in money paid or the promise to pay same. It is a specific type of legal contract.

Sale and Agreement of Sale

A contract is a formal or verbal agreement that is enforceable by law. Every contract must have an agreement but every agreement is not a contract.

Section 4(1):A contract of sale of goods is a contract whereby the seller either transfers or agrees to transfer the property in goods to the buyer for a decided price.’

Section 6: (1) Existing goods mean the goods which are either owned or possessed by the seller at the time of contract of sale.

(2) These are the goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

Section 9(1):There are three modes of determining the price as under:

- It may be fixed by the contract or

- It may be left to be fixed in an agreed manner
- It may be determined by the course of dealing between the parties.
- Thus, the price need not necessarily be fixed at the time of sale.

Section 9(2):Consequences of not determining the Price in any of the Mode

Where the price is not determined in accordance with Section 9(1), the buyer must pay seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. It may be noted that a reasonable price need not be market price.

Section 10:Consequence of not Fixing Price by third party

The agreement to sell goods becomes void if the following two conditions are fulfilled.

- If such agreement provided that the price is to be fixed by the valuation of a third party,
- If such third party cannot or does not make such valuation.

Section 12:A condition is a stipulation which is essential to the main purpose of the contract the breach of which gives the aggrieved party a right to terminate the contract.

A warranty is a stipulation which is collateral to the main purpose of the contract the breach of which gives the aggrieved party a right to claim damages but not a right to reject goods and to terminate the contract.

Section 13(1) provides that, 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.

Section 14 starts by stating that there is no implied condition or warranty as to quality or fitness for a particular purpose, except as provided by section 14 and 15. This preserves the principle of caveat emptor let the buyer beware. In the following case the court of appeal confirmed that the implied terms in section 14 apply to every sale by a business, even though the goods sold may not be part of the stock in trade.

Sale by Sample

Where goods are bought by bulk and the buyer has tested or examined a small number of those goods, the seller is obliged to make sure that every item in the bulk corresponds with the quality of the sample tested or examined.

An example of the application of this provision can be found in case of *Godley v Perry* (1960). The court held that the first defendant was in breach of section 14(2) and (3) as the goods was not fit for its purpose and was not of merchantable quality. Besides that, the third and fourth parties were both in breach of section 15(2) (c) since the defect of the goods could not be discovered by reasonable examination of the sample.

Section 19: This is the first rule of the passing of property. It deals with the passing of specified goods and states that –Specific or ascertained goods pass when intended to pass.

Section 20: It states that if the contract is unconditional for the sale of specific goods in a deliverable state, then the property in the goods passes to the buyer the moment the contract is made. This rule holds true even if the time of payment of price or delivery of the goods or both is postponed.

Section 21: Specific goods to be put into a deliverable state

Imagine a contract for the sale of goods where the seller has to do something before the goods are ready for delivery. In such cases, the passing of property happens only after the seller does the things and informs the buyer.

Section 22: Specific goods are in a deliverable state but the seller has to do something to ascertain the price

Imagine a contract of sale of goods which are in a deliverable state but the seller has to do something like weight, measure, test, or perform any other act on the goods to ascertain the price. In such cases, the property does not pass until the seller does the act and informs the seller.

Section 23: In a case where the goods are delivered to the buyer either on approval or on “sale or return” or on other comparable terms then:

- (a) The goods therein will only pass to the buyer if the buyer either portrays his consent or acknowledges to the seller or does any act by which the transaction would be adopted.

(b) The goods therein will only pass to the buyer if the buyer doesn't express his consent or acknowledgement to the seller that he intends to reject the goods, however, holds the goods without giving a notice to the buyer then on the expiration of time frame for the return of the goods or if time hasn't been fixed, then on the completion of a reasonable time, the property will be passed to the buyer.

Section 27: Sale by a mercantile agent

Consider a mercantile agent, who is in possession of the goods or a document to the title of the goods, with the consent of the owner. Such an agent can sell the goods when acting in the ordinary course of business of a mercantile agent. The sale shall be valid provided the buyer acts in good faith and has no reason to believe that the seller doesn't have any right to sell the goods. The transfer of title is valid in such a case.

Section 28: Sale by one of the Joint Owners

Many times goods are purchased in joint ownership. In many cases, the goods are kept in the possession of one of these joint owners by the permission of the co-owners. If this person (who has the sole possession of the goods) sells the goods, the property in the goods is transferred to the buyer. This is provided the buyer acts in good faith and has no reason to believe that the seller does not have a right to sell the goods.

Section 33: defines delivery as a voluntary transfer of possession from one person to another. It is also the process of transporting goods from a source location to a predefined destination. Cargo (physical goods) is primarily delivered via roads and railroads on land, shipping lanes on the sea and airline networks in the air.

Section 34: If a part-delivery of the goods is made in progress of the delivery of the whole, then it has the same effect for the purpose of passing the property in such goods as the delivery of the whole. However, a part-delivery with the intention of severing it from the whole does not operate as the delivery of the remainder.

Section 35: Unless there is a contract to the contrary then the buyer must apply for delivery. But if it is mentioned in the contract that the seller has to deliver the goods then the seller has to deliver without the permission of the buyer.

Section 38: Installment deliveries

The buyer does not have to accept delivery in installments unless he has agreed to do so in the contract. If such an agreement exists, then the parties are required to determine the rights and liabilities and payments themselves.

Section 40: Deterioration during transit

If the goods are to be delivered at a distant place, then the liability of deterioration incidental to the course of the transit lies with the buyer even though the seller agrees to deliver at his own risk.

Section 41: Buyers right to examine the goods

If the buyer did not get a chance to examine the goods, then he is entitled to a reasonable opportunity of examining them. The buyer has the right to ascertain that the goods delivered to him are in conformity with the contract. The seller is bound to honor the buyer's request for a reasonable opportunity of examining the goods unless the contrary is specified in the contract.

Section 42: Acceptance of Delivery of Goods

A buyer is deemed to have accepted the delivery of goods when:

- He informs the seller that he has accepted the goods; or
- Does something to the goods which is inconsistent with the ownership of the seller; or
- Retains the goods beyond a reasonable time, without informing the seller that he has rejected them.

Section 43: Return of Rejected Goods

If a buyer, within his right, refuses to accept the delivery of goods, then he is not bound to return the rejected goods to the seller. He needs to inform the seller of his refusal though. This is true unless the parties agree to other terms in the contract.

Section 44: Refusing Delivery of Goods

If the seller is willing to deliver the goods and requests the buyer to take delivery, but the buyer fails to do so within a reasonable time after receiving the request, then he is liable to the seller for any loss occasioned by his refusal to take delivery. He is also liable to pay a reasonable charge for the care and custody of goods.

Section 45: A person has sold some goods and has not got the whole price and if the transaction is done through negotiable instruments like cheque, bill of exchange and a promissory note, then the person can be said as an unpaid seller.

Section 46: Rights of an unpaid seller.

- Against the goods – *jus in rem* (right against property)
- Against the buyer – *jus in personam* (right against the person)

Section 48: Part-delivery

Section 48 states that if an unpaid seller makes part-delivery of the goods, then he may exercise his right of lien on the remainder. This is valid unless there is an agreement between the buyer and the seller for waiving the lien under part-delivery.

Section 50: There are four essential requirements for stopping the goods in transit:

- Unpaid seller.
- Buyer insolvent.
- Property should have passed to the buyer.

- Property should be in course of transit.

Section 55:Suit for price

Where property in goods has passed to the buyer; or where the sale price is payable 'on a day certain', although the property in goods has not passed; and the buyer wrongfully neglects or refuses to pay the price according to the terms of the contract, the seller is entitled to sue the buyer for price, irrespective of the delivery of goods. Where the goods have not been delivered, the seller would file a suit for price normally when the goods have been manufactured to some special order and thus are unsaleable otherwise.

Section 56:Suit for damages for non-acceptance

Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance. The seller's remedy in this case is a suit for damages rather than an action for the full price of the goods.

Section 57: The buyer may sue for damages for non-delivery.

Section 61(2): Suit for Interest

In case of breach of the contract on the part of seller, the buyer may sue the seller for interest from the date on which the payment was made.

Recent Amendments

The act was amended on 23 September 1963, and was renamed to the *Sale of Goods Act, 1930*.

Conclusion

The Sale of Goods Act, 1930 tells us about a few views regarding the transfer of property during a contract pertaining to the sale of goods. It help a lot for the customer to protect them self from getting cheated.

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About the Author



I'm Divya Soni from Indore Institute of Law and I had the opportunity to undergo a one-month internship at LeaglEagle Law Forum. I must say this was an enriching experience for me. Mainly this was an online internship and bare act review program. Each intern was provided with six bare acts to review which we have to submit at the 20th day. It was difficult and interesting for me to review each bare act as I haven't read few bare acts before. In general, I can say that this internship was an invaluable experience for me, and the knowledge and skills I gained during this period will certainly help me in the future.