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# VIRTUAL COACHING CLASSES ORGANISED BY BOS, ICAI

## FOUNDATION LEVEL PAPER 2A: BUSINESS LAWS

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# THE SALE OF GOODS ACT, 1930

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## UNIT – 1: FORMATION OF THE CONTRACT OF SALE

# SCOPE OF THE ACT

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- Sales of Goods Act is an Act to define and amend the laws relating to the sale of goods.
- It came into force on 1<sup>st</sup> July 1930.
- The provisions of the Act are applicable to the sale of **ONLY Movable properties** and the Act is not applicable to immovable properties.



# Topics to be Covered

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Definitions

Sale &  
Agreement to  
Sell

Distinction b/w  
Sale & An  
Agreement to  
Sell

Sale Vs. Other  
Similar  
Contracts

Contract of Sale

Ascertainment  
of Price

# Definitions

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- **SELLER-** A person who *sells or agrees* to sell the goods.
- **BUYER -** A person who *buys or agrees* to buy the goods.
- Example: On 1<sup>st</sup> Feb 2021, A agrees to sell 100 bales of cotton to B for Rs.1000 on 10<sup>th</sup> March 2021. Here, A is a Seller and B is a buyer.



# Goods

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- It must be “movable” (tangible goods also goods)
- Things attached to or forming part of land which can be severed (growing crops, grass, trees)
- Includes Stock and Shares
- Contract for sale of a Coal mine or a building stone quarry is not a contract for sale of goods

## NOT GOODS:

- Actionable claims
- Money



# Specific Goods

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Goods which are identified and agreed upon at the time, a contract of sale is made





# Ascertained & Unascertained goods

**Ascertained Goods:** Those goods which are identified in accordance with agreement after contract is made

**Unascertained goods:** Goods not specifically identified at the time of making the agreement







# Specific & Ascertained goods

## Example

“A” owns 10 Maruti Cars. “B” contracts him to buy his Maruti Car bearing No. OR-02 AT 8800. This is a contract to buy **specific goods**.

## Example

“A” owns 10 Maruti Cars. “B” contracts with “A” to buy one out of them. After the contract, “A” keeps out one car to be given to “B”. This car is now **ascertained goods**.



# Specific and Unascertained goods

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## Example

“A” owns 10 Maruti Cars. “B” contracts him to buy his Maruti Car bearing No. OR-02 AT 8800. This is a contract to buy **specific goods**.

## Example

“A” owns 10 Maruti Cars. “B” contracts with “A” to buy one car out of them. This is a contract of sale of **unascertained goods**.



# Future goods

1000 quintals of potatoes to be grown in “A” s field



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All the milk that the cow may yield during the coming year





# Contingent goods

P contracts to sell 50 pieces of a particular article provided the ship which is bringing them reaches the port safely.

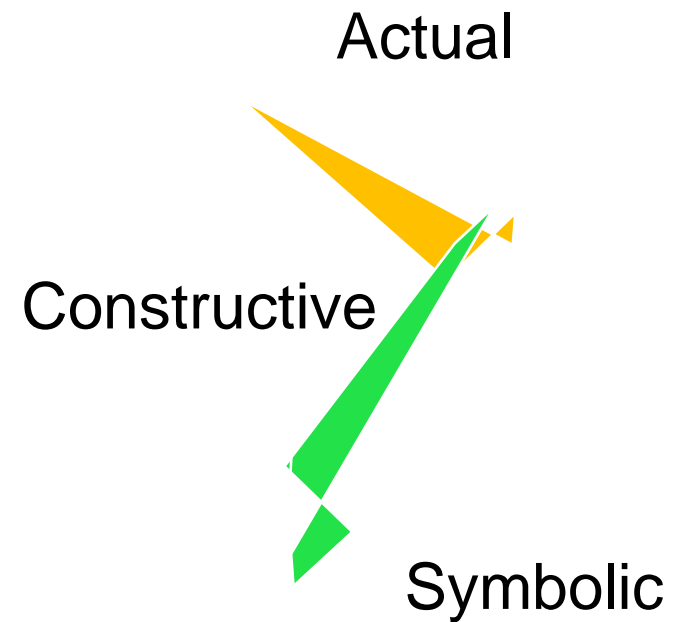
This is an agreement for the sale of **Contingent Goods**.





# Delivery of goods

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# Document showing Title vs. Document of Title

## Share certificate



## Dock receipt

A dock receipt form titled "Your Company Logo Here" and "DOCK RECEIPT". The form contains several sections for recording details of goods received at a dock. It includes fields for the date, time, and location of receipt, as well as a section for recording the quantity and description of goods. The form is designed to be filled out by the receiving party and signed by the sender.



## “Document showing title”

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A document amounts to a document of title only where it shows an unconditional undertaking to deliver the goods to the holder of the document.

**Example:** Share Certificate - transfer of right not possible by mere endorsement.





# Property

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- It means the general property and not merely a special property
- When goods are pledged:
  - ❖ General Property - of the owner
  - ❖ Special property – of the pledgee (to whom goods pledged)
- Here pledgee has a right to retain the goods pledged till payment of the stipulated dues

# Sale & Agreement to Sell

Sale

- Where under a contract of sale the property in goods
- **is transferred** from the seller to the buyer

Agreement  
to sell

- Where the transfer of the property in the goods
- **is to take place at a future time**
- **subject to some condition** thereafter to be fulfilled



# Contract of sale – elements must co-exist

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- Buyer & Seller
- Movable goods
- Price in money
- Transfer of property to take place
- May be absolute or conditional
- All essential elements of a Valid contract



# Sale Vs. Agreement to Sell

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## SALE

1. **Transfer of Property** : Immediately
2. **Nature of contract** : Executed
3. **Remedies for breach** : Sue for price
4. **Liability of parties on subsequent loss or destruction** : Liability of the buyer
5. **Burden of risk** : Buyer
6. Jus in **rem**
7. Seller cannot **re-sell** the goods

## Agreement to Sell

1. Future Date or fulfillment of condition
2. Executory
3. Sue for damages only and not for price
4. Liability of the seller
5. Seller
6. Jus in personam
7. Seller may re-sell

# Sale Vs. Hire Purchase

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## SALE

1. **Time of Passing of Property:** Immediately
2. **Position of the buyer:** like that of owner
3. **Terminate the contract:** the buyer cannot terminate the contract and bound to pay price

## HIRE PURCHASE

1. Payment of last instalment
2. Position of the hirer is like that of bailee till final payment
3. The hirer may terminate the contract by returning the goods

# Sale Vs. Hire Purchase

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## SALE

4. **Burden of risk of insolvency of buyer** : risk of seller
5. **Transfer of title** : The buyer can pass a good title to a bona fide purchaser
6. **Resale** : The buyer can

## HIRE PURCHASE

4. Owner takes no risk and has right to take back the goods
5. Hirer cannot pass any title even to a bonafide purchaser
6. Hirer cannot resell unless all instalments paid



# Sale Vs. Bailment

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## SALE

1. **Transfer of property** : Transferred from seller to buyer
2. **Return of goods** : Not possible
3. **Consideration** : It is the Price in terms of money

## BAILMENT

1. Transfer of possession of goods from bailor to bailee
2. Bailee must return the goods to the Bailor on accomplishment of the purpose
3. Consideration may be gratuitous or non gratuitous



# Sale and Contract for work and labour

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Where no goods are sold and there is only the doing or rendering of some work of labour, then the contract is only of work and labour and no sale of goods

**Example:** Gold is supplied to goldsmith for preparation of an ornament.





# Contract of Sale – How made?

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- ✓ By an offer to buy or sell goods for a price and acceptance of offer
- ✓ May be for immediate delivery or
- ✓ For immediate payment of price but future delivery or
- ✓ Both immediate delivery and immediate payment of price
- ✓ Delivery or payment or both in instalments
- ✓ Delivery or payment or both in future dates



# Subject matter of contract of sale

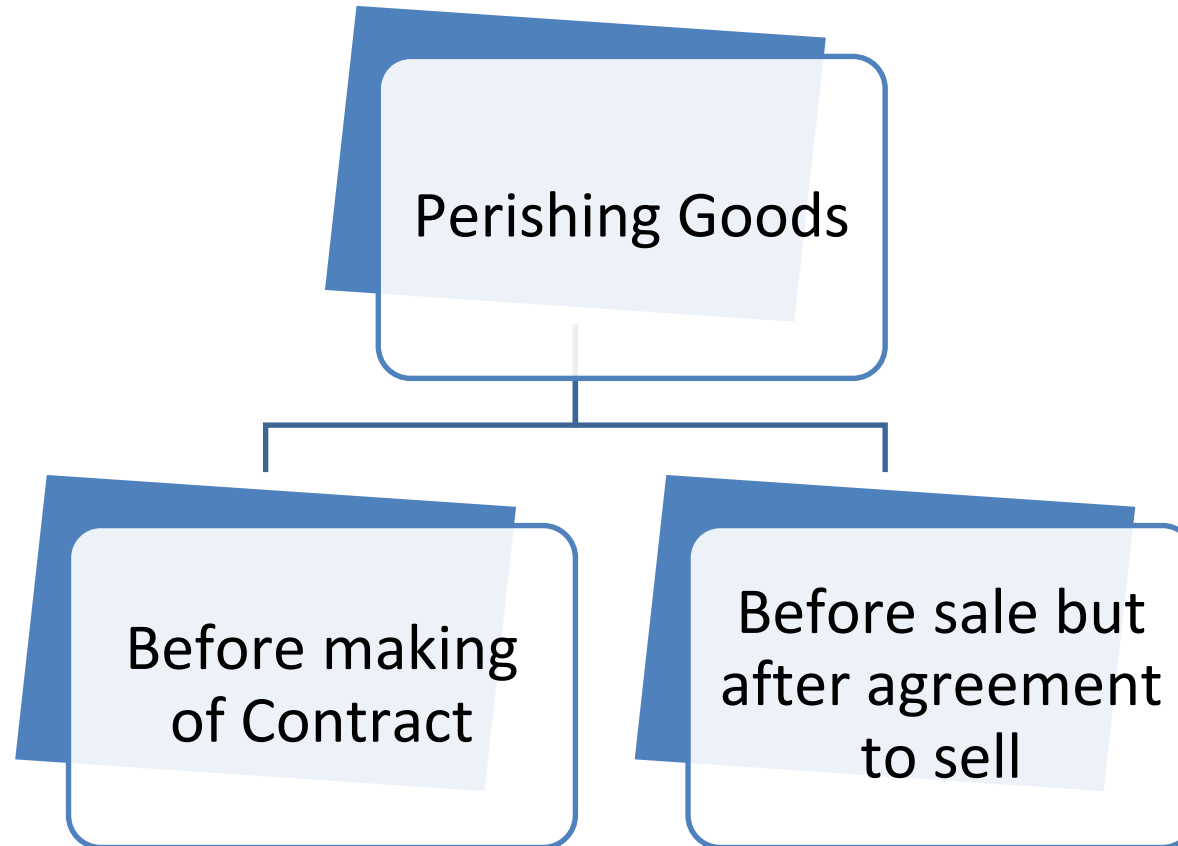
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- Existing Goods: Specific, Ascertained and Unascertained
- Future Goods
- Contingent Goods



# Subject matter of Contract of Sale

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# Example

**At the time of agreement neither party aware of the fact of Pic. 2  
Agreement Void.**

A Agrees to sell 50 bags of wheat  
stored in A's Godown

Due to water logging all the goods were destroyed





# Goods Perishing before Sale but after agreement to Sell

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**Goods perishing before making the contract:** Contract of specific goods, without knowledge of seller, perished.....Agreement is void

**Goods perishing before sale but after agreement to sell:** Contract of specific goods, without either party fault goods become damaged.....the risk has NOT passed to the buyer, agreement thereby avoided.



# Ascertainment of Price

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- 1. The Price is mentioned in the contract itself (usual mode)
- 2. The manner of fixing the price is mentioned in the contract
- 3. Price is determined by the course of dealings between the parties
- 4. When price is not fixed by any of the above modes: “reasonable price”



# Ascertainment of Price

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The Price is mentioned in the contract itself (usual mode)

**Example:** “A” agrees to sell his car to “B” for Rs. 50,000/- .  
Here the price is fixed.

**Example:** “A” agrees to sell his Maruti Car for Rs. 50,000/-  
if a new model of the car does not come within a week, or  
for Rs. 20,000/- if a new model comes within one week.  
This is void because of uncertainty of price (wagering  
agreement).



# Ascertainment of Price

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The manner of fixing the price is mentioned in the contract

**Example:** “A” agrees to sell 100 toys to “B”. Both of them agree that the price should be fixed by “C”. This is valid.

**Example:** “A” agrees to sell 100 toys to “B” at a price to be determined by “B”. This is not a valid contract of sale as it gives right to fix the price to one party without the consensus of the other. This is not valid.





# Ascertainment of Price

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Price is determined by the course of dealings between the parties.

**Example:** “A” contracts with “B” to buy 100 shares of Company PQR Ltd. in the general course of dealings, the accepted price is the price prevailing on the date of contract for sale of shares.



# Ascertainment of Price

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When price is not fixed by any of the above modes:  
“reasonable price”

What is reasonable will depend upon the facts and circumstances of the case.

**Example:** “A” orders “B” to supply 100 Kg of sugar to him without talking about the price. Here, price of the sugar would be taken as market price on the date of order.



# Agreement to Sell at Valuation

P agrees to sell both bikes to “S” at a price to be fixed by “Q”



Gives delivery of one bike . “Q” refuses to fix the price





# Analysis

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“P asks “S” to return the Bike already delivered. “S” Claims for delivery of the second bike. Applying the legal position:

Where there is an agreement to sell goods on the terms that price has to be fixed by the third party and he does not or cannot make such Valuation, the agreement will be VOID

In case the third party is prevented by default of either party from fixing the price, the party at fault – Liable to damages

If buyer received the goods , must pay a reasonable price for them in any eventuality

HENCE “S” TO PAY REASONABLE PRICE TO “P” FOR BIKE ALREADY TAKEN. For 2<sup>nd</sup> bike , the contract can be avoided



# Test your knowledge - 1

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1. A Contract for the sale of goods where property would pass to the buyer on payment of total price would be :

- a) Sale
- b) Agreement to Sell**
- c) Hire purchase contract
- d) Sale on approval



## Test your knowledge - 2

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2. If “X” commissioned “Y” , an artist, to paint a portrait of “A” for Rs. 1000 and “Y” uses his own canvas and paints, then, this would be:

- a) Contract of Sale
- b) Contract of work and materials**
- c) Hire purchase agreement
- d) Sale on approval



## Test your knowledge - 3

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3. If a seller handed over the keys of a warehouse containing the goods to the buyer, then this results in :

- a) Constructive Delivery
- b) Actual Delivery
- c) Symbolic Delivery**
- d) None of the above



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# Thank You