



Date: 4 March 2021

Virtual coaching Classes
Organised by BoS, ICAI

FOUNDATION Level
Paper 2A : BUSINESS LAWS

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THE SALE OF GOODS ACT, 1930

UNIT – 4 : UNPAID SELLER



Session Layout

UNPAID
SELLER

RIGHTS
AGAINST THE
GOODS

RIGHTS
AGAINST THE
BUYER

REMEDIES OF
BUYER
AGAINST THE
SELLER

AUCTION
SALES



4.1 UNPAID SELLER

1. The Whole price has not been paid or tendered and the seller has an immediate right of action for the price

2. When a bill or exchange or other negotiable instrument has been received as conditional payment and it has dishonoured



Example : Unpaid Seller

“A” sold certain goods to “B” for Rs. 50,000 and B pays Rs. 40,000 and fails to pay balance amount



- P sold goods to R for Rs. 60,000 and received a cheque. On presentation the cheque, was dishonoured in bank



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Rights of an unpaid seller

Against the goods :

- Property has Passed
- Property has Not Passed



Against the buyer :





4.3 RIGHTS OF UNPAID SELLER AGAINST THE GOODS

- Property in goods has passed to the buyer
 - Lien
 - Stoppage in transit
 - Resale
- Property in goods has not passed to the buyer
 - Withholding Delivery
 - Lien
 - Stoppage in transit
 - Resale



4.4 RIGHTS OF UNPAID SELLER AGAINST THE BUYER

- 1. Suit for Price (even if property not passed)
- 2. Suit for Damages
- 3. Suit for Interest
- 4. Repudiation of Contract before due date



4.3.1 SELLER'S LIEN

- RIGHT TO RETAIN POSSESSION UNTIL PAYMENT:
- (a) Where goods sold without stipulation as to credit
(**Cash Sales**)
- (b) Goods sold on **credit**, but terms of credit expired
- (c) Buyer becomes **insolvent** (*ceases to pay debt in the ordinary course of business*)



4.3.2 SELLER'S LIEN – Part Delivery

- Seller can exercise his right of lien on remaining goods if part delivery already made.....unless, part delivery implies waive of lien



4.3.3 SELLER'S LIEN – Termination of Lien

- (a) Delivers goods to carrier or bailee
- (b) Buyer or agent lawfully obtains the goods
- (c) By waiver
- (d) By Estoppel (by conduct or behaviour)
- Note : *The Unpaid Seller does not lose his right of lien if he has obtained a decree for the price*



Seller's Lien Example : A (unpaid Seller)

A sold goods to B for Rs. 50,000/- and allowed him one month credit but within that he became insolvent



A sold Car to B for Rs. 1,00,000 and delivered the railway receipt to B. Here Lien cannot be exercised





4.3.2 Right of Stoppage in transit

Meaning : The right of stopping the goods while in transit, to regain possession and retain until the full price is paid.

How stoppage is effected :

- Conditions:
 - 1. Seller must be unpaid
 - 2. Parted with the possession
 - 3. Goods in transit
 - 4. Buyer has become insolvent
- By taking actual possession or
- Giving notice of his claim to the carrier or bailee
- Expenses of re-deliver to be borne by the seller



4.3.2 Duration of transit/transit comes to an end

Duration of transit : Goods in the course of transit

Contd.....

- When they are delivered to a carrier or other bailee for transmission until delivery taken
- Transit end irrespective of the fact that a further destination is indicated by the buyer
- If goods rejected by the buyer transit is not deemed to end
- Where the carrier or bailee wrongfully refuses to deliver the goods , the transit comes to an end
- When goods delivered to a ship chartered by buyer, the transit comes to an end
- Where part delivery, remaining goods may be stopped



Effects of sub-sale or pledge by buyer

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- A entered into a contract to sell goods in possession of a wharfinger to B . Then B sold the goods to C and C paid the price

Wharf





Case contd....

- B now fails to make payment to A. Here, A wanted to exercise his right of lien and ordered the Wharfinger not to give delivery to C
- **Solution : Seller had assented to the resale of the goods by the buyers to sale further to the sub buyers. As a result, A's right of lien is defeated**



Legal Provisions:

- The right of lien or stoppage in transit is not affected by the seller further selling or pledging the goods *unless* the seller has assented.
- The right of stoppage is defeated if the buyer has transferred the document of title or pledges the goods to a sub-buyer in good faith and consideration *subject* to the rights of the pledgee



Right of Re-Sale - Conditions

- Where goods are of perishable nature : Need NOT inform the intention to re-sell
- Other cases:
- **Notice to be given** to the buyer and if he fails within reasonable time to pay then the seller can (a) **recover** the difference between contract price and resale price (b) **retain** profits if sold for higher price



Right of Re-Sale – Conditions Contd.

- Where an unpaid seller who has exercised his right of lien or stoppage in transit resells the goods : the subsequent buyer obtains good title
- Where resale is expressly reserved, the seller may resell the goods on buyer's default
- Where property in goods not passed to the buyer



Rights of buyer

- 1. Damages for non delivery
- 2. Suit for Specific Performance
- 3. Suit for breach of Warranty
- 4. Repudiation of contract before due date
- 5. Suit for interest

Previous Year Question Paper

Nov., 2019

4(2) What are the rights of an unpaid seller against goods as per the Sale of Goods Act, 1930 (6 marks)



Inclusion of increased or decreased taxes in a contract of sale

- If after a contract has been made but before it has been performed, tax revision takes place.....the buyer will have to pay the increased price (if increased) and get benefit (if decreased)
- Open to the parties to stipulate the changes.



Thank You