# THE SALE OF GOODS

## <u>ACT, 1930</u>

PREPARED BY SHWETA SHAH ASSISTANT PROFESSOR DEPARTMENT OF COMMERCE PATNA WOMEN'S COLLEGE

Sale Of Goods Act

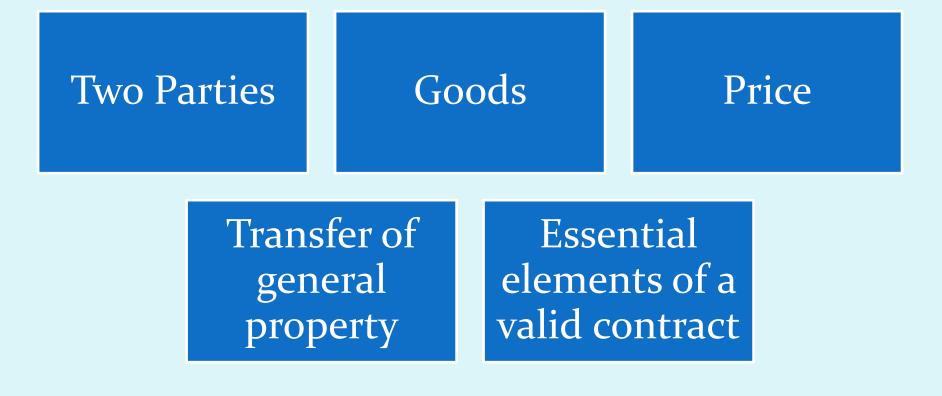


### **DEFINATION OF CONTRACT OF SALE**

### Section 4 defines a contract of sale as "a

Contract whereby a seller transfers or agrees to transfer the property in goods to the buyer for a price.

## ESSENTIALS OF A CONTRACT OF SALE



## SALE AND AGREEMENT

## **TO SELL**

Where under a contract of sale, the property in the goods is transferred from the seller to the buyer, the contract is called a 'sale', but where transfer of the property in the goods is to take place at a future time or subject to some conditions thereafter to be fulfilled, the contract is called an 'agreement to

sell'.



Sale and Agreement to sell

### DIFFERENCES BETWEEN SALE AND AGREEMENT TO SELL

Transfer of property

Types of goods

### Risk of loss

Consequences of breach

Right to resell

## CONDITIONS AND WARRANTIES

CONDITION [Sec. 12(2)]- A condition is a stipulation essential to the main purpose of the contract. If there is a breach of a condition, the aggrieved party can treat the contract as repudiated.

STIPULATION AS TO TIME

Price

lot essence o contract Delivery of good

WARRANTY[Sec. 12(3)]- A warranty is a stipulation which is collateral to the main purpose of the contract. If there is a breach of a warranty, the aggrieved party can only claim damages and it has no right to treat the contract as repudiated.

### DIFFERENCES BETWEEN A CONDITION AND A WARRANTY

### DIFFERENCE AS TO VALUE

### DIFFERENCE AS TO BREACH

DIFFERENCE AS TO TREATMENT

## EXPRESS AND IMPLIED

### **CONTIONS AND WARRANTIES**

EXPRESS conditions and warranties are those which are expressly provided in the contract. IMPLIED conditions and warranties are those which the law implies into the contract.

Condition vs Warranty

Sale of Goods Act

# IMPLIED

### **CONDITIONS**

CONDITION AS TO TITLE

SALE BY DESCRIPTION

SALE BY DESCRIPTION AS WELL AS BY SAMPLE

CONDITION AS TO QUALITY OR FITNESS

CONDITION AS TO MERCHANTABILITY

SALE BY SAMPLE

CONDITION AS TO WHOLESOMENESS

### **IMPLIED WARRANTIES**

#### WARRANTY OF QUIET POSSESSION

WARRANTY OF FREEDOM FROM ENCUMBRANCES



WARRANTY AS TO QUALITY OR FITNESS BY USAGE OF TRADE

> WARRANTY TO DISCLOSE DANGEROUS NATURE OF GOODS

### **RULE OF "CAVEAT EMPTOR**

This means 'let the buyer beware', i.e., 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 be defective or do not suit his purpose or if he depends upon his own skill or judgment and makes a bad selection, he cannot blame anybody excepting himself.

CAUTIC

**Proceed At Own Risk** 



### EXCEPTIONS TO THE RULE OF "CAVEAT EMPTOR"

FITNESS FOR BUYER'S PURPOSE

SALE UNDER A PATENT OR TRADE NAME

MERCHANTABLE QUALITY

USAGE OF TRADE

CONSENT BY FRAUD

### SALE BY NON-OWNERS

The general rule of law is that "no one can give that which one has not got". This is expressed in Latin maxim "nemo dat qui non habet". That means it is only the owner of the goods, or a person authorised by him , who can sell the goods. This is, however, subject to certain exceptions.

ale

Act

Goods

# **EXCEPTIONS**

SALE BY A PERSON NOT THE OWNER SALE BY A MERCANTILE AGENT

SALE BY ONE OF SEVERAL JOINT OWNERS SALE BY A PERSON IN POSSESSION UNDER A VOIDABLE CONTRACT

SALE BY SELLER IN POSSESSION AFTER SALE SALE BY AN UNPSALE BY BUYER IN POSSESSION AFTER BOUGHT AID SELLER

## WHO IS AN UNPAID

**SELLER?** 

### Who is Unpaid Seller?

Sales of Goods Act

A seller of goods is deemed to be an unpaid seller when-

- The whole of the price has not been paid or tendered;
- A bill of exchange or other negotiable instrument has been received as a conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise[Sec. 45(1)].

### **RIGHTS OF AN UNPAID**

**SELLER** 

- RIGHTS OF AN UNPAID SELLER AGAINST THE GOODS [Sec. 46(1)]
- Right of lien
- Right of stoppage in transit
- Right of re-sale

## RIGHTS OF AN UNPAID SELLER

(2) RIGHTS OF AN UNPAID SELLER AGAINST THE BUYER PERSONALLY

Suit for price

Suit for damages for non-acceptance

Repudiation of contract before due date

Suit for interest

Sale Of Goods Act 1930



# THANK YOU

