

Business Law

Lecture-17

The Sale of Goods Act, 1930

1 This section is based on the rule that where both the parties to a contract are under a mistake as to a matter of fact essential to a contract, the contract is void.

2. In a similar way Section 8 provides that an agreement to sell specific goods becomes void if 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 agreement before the risk passes to the buyer. This rule is also based on the ground of impossibility of performance as stated above.
3. It may, however, be noted that section 7 and 8 apply only to specific goods and not to unascertained goods. If the agreement is to sell a certain quantity of unascertained goods, the perishing of even the whole quantity of such goods in the possession of the seller will not relieve him of his obligation to deliver the goods.

Describe the term "unpaid seller" under the Sale of Goods Act, 1930? When can an unpaid seller exercise the right of stoppage of goods in transit?

Provision:

1. According to Section 45 of the Sale of Goods Act, 1930 the seller of goods is deemed to be an 'Unpaid Seller' when-
 - a) The whole of the price has not been paid or tendered.
 - b) A bill of exchange or other negotiable instrument has been received as conditional payment, and it has been dishonoured.
2. Right of stoppage of goods in transit: When the unpaid seller has parted with the goods to a carrier and the buyer has become insolvent, he can exercise this right by asking the carrier to return the goods back, or not to deliver the goods to the buyer.
3. However, the right of stoppage in transit is exercised only when the following conditions are fulfilled:
 - a) The seller must be unpaid.
 - b) The seller must have parted with the possession of goods.
 - c) The goods must be in the course of transit.
 - d) The buyer must have become insolvent.
 - e) The right is subject to provisions of the Act.

Explain the "condition as to Merchantability" and "condition as to wholesomeness" under the Sale of Goods Act, 1930.

Provision: [The Sale of Goods Act, 1930]

1. Condition as to Merchantability [Section 16(2) of the Sale of Goods Act, 1930]: 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.
2. Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed .

The expression “merchantable quality”, though not defined, nevertheless connotes goods of such a quality and in such a condition a man of ordinary prudence would accept them as goods of that description. It does not imply any legal right or legal title to sell. Example: If a person orders motor horns from a manufacturer of horns, and the horns supplied are scratched and damaged owing to bad packing, he is entitled to reject them as unmerchantable.

4. Condition as to wholesomeness: In the case of eatables and provisions, in addition to the implied condition as to merchantability, there is another implied condition that the goods shall be wholesome.

Example: A supplied F with milk. The milk contained typhoid germs. F's wife consumed the milk and was infected and died. Held, there was a breach of condition as to fitness and A was liable to pay damages.