

## Unit-2: Sale of goods

Q1) Define Buyer.

Ans - Buyer means a person who buys or agrees to buy goods. [Section 2(1)]

Q2) What is Seller?

Ans - Seller means a person who sells or agrees to sell goods. [Section 2(13)]

Q3) Define Good.

Ans - The term goods includes every kind of movable property ~~but~~ Except:

- (i) Actionable claims and
- (ii) Money. [Section 2(7)].

Q4) Define Existing Goods.

Ans - Existing goods are goods which are already in existence and which are physically present in some person's possession and ownership. [Section 6(1)].

Q5) Define future Goods.

Ans - Future Goods are goods which will be manufactured or produced or acquire by the seller after the making of the contract ~~but~~ sell. [Section 2(6)].

Q6) Define Contingent Goods.

Ans - There may be a contract for the sell of the goods the acquisition of which by the seller depends upon a contingency which may ~~be~~ or may not happen. [Section 6(2)]. In such cases the goods sold are called contingent goods.

Q7) What is Sale?

Ans - A contract for the sell of goods may be either a sale or an agreement to sell. [Section 4] Where under a contract of sell the property in the goods is transferred from the seller to the buyer the contract is called sale.

Q8) Define Agreement Sell.

Ans - When the transfer of ownership is to take place at a future time or subject to some condition to be fulfilled later, the contract is called an agreement to sell.

9) What are the difference bet. a Sale and <sup>an</sup> Agreement to Sell.

Ans. (i) transfer of ownership: In an Agreement to Sell the property in the goods remains with the seller until the Agreement to Sell becomes a Sale by the expiry of the agreed time or the fulfillment agreed Conditions. Till this happens, the goods can be resold by the seller or attached in execution of a decree against him. In case of a Sale the property passes to the buyer and the goods cannot be seized in execution of a decree the seller.

(ii) transfer of Risks: Where the transaction amounts to a ~~Sale~~ Sale, the goods belong to the buyer and he has to bear the loss if the goods are subsequently damaged. [Sec. 26]

(iii) Remedial Majors: In the case of a Sale, the unpaid seller has certain reliefs available, example:- ~~lien~~ lien, stoppage in transit, resale etc. In case of an agreement to Sell, the seller's remedy for breach of a Contract by the buyers, is a suit for damages.

(iv) Nature of Contract: 'Sale' is an 'executed Contract' because in a Sale Consideration moves simultaneous with the promises of both parties. Also, in a Sale the property of specific goods is transferred to the buyer immediately. But an 'agreement to Sell' is an 'executory Contract' because the Consideration is to move at a future date also the property of specific goods pass to the buyer later.

10) What are the Essential <sup>of a</sup> Contract for the Sale of goods.

Ans. (i) movable goods: The Sale of goods act deals only with movable goods, excepting ~~actionable~~ actionable claims and money. [Sec 2(7)] These Act does not apply to immovable properties.

(ii) Essential element of a Valid Contract: All the ~~of~~ requirements of a Valid Contract such as: free Consent Consideration Competence of the parties, lawful object and Consideration must be fulfilled. If any of the essential elements of a Valid Contract is absent, then the Contract of Sell will not be Valid.

(iii) Two Parties: Another essential elements of a Contract is that must be two parties to the Contract of Sell. Viz; Seller and buyer.

In a Contract of Sale, the ownership of goods has to pass from one person to another. Hence, the seller and the buyer must be different persons because one person can't be both the buyer and the seller.

But there are certain exceptions on this; where a person's good are sold under an execution of Daisy, he may purchase his own goods.

(iv) goods: There must be some goods as a subject matter :-

Goods must be one which is definite as a good in a section 2(7) of the sales of goods act. As per the definition given in Section 2(7) of the act goods means every kind of movable property and it includes:

- (i) Stock & Share.
- (ii) Growing crops.
- (iii) Grass.

(Same)

(iv) goods: There must be some goods as a subject matter. Goods must be defined as a goods in Section 2(7) of the sales of goods act as per the definition given in Section 2(7) of the act goods bills. Every kind of movable property.

(v) The Things attached to or forming a part of the land which can be severed from the land.

(vi) Transfer of Ownership: In a Contract of Sale, Ownership Over goods has to be transferred to the buyer by the seller or there should be an agreement to transfer the Ownership by the seller to the buyer.

The property in the goods means "All Ownership rights" of the goods in a Contract of Sale, all the Ownership rights of the goods must be transferred by the seller to the buyer. However, the physical delivery of the goods is not required.

(vii) Price: Another essential elements of a Contract of sell is that there must be some price for the goods that means, the goods must be sold for some price. According to section 2(10) of the Sale of goods act the term price means "the money Consideration for a sale of goods".

Thus; the price is the Consideration for Contract of Sale which should be in terms of money. If the Ownership of the goods is transferred for any Consideration other than the money. That will not be Sale but an exchange. However, Consideration can be paid partly in money and partly in goods.

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Q) Write the difference between Sell and Agreement to Sell.

Ans: The difference between the Sale and Agreement Sell are:-

| Sale  | Agreement to Sell.  |
|---|---|
| (i) If the goods are destroyed the loss will be borne by the buyer even though they may be in possession of the seller. | (i) The loss will be borne by the seller even though the goods may be in possession of the buyer. |
| (ii) A Sale is right to the buyer to enjoy the goods against the whole world including the seller.                      | (ii) The buyer Only can use the seller for damages.   |
| (iii) In case of Sell the buyer can be should for price of goods.   | (iii) The buyer can be used for the damages.  |

| Sale  | Agreement to sell   |
|---|---|
| (iv) If the seller becomes insolvent after payment of price, the buyer can claim the goods from the official receiver.                          | (iv) The buyer cannot claim the goods. He can only claim rateable dividend for the amount paid by him.      |
| (v) Sale is an executed contract. Property in the goods passes from seller to buyer.  | (v) It is an executory contract is to take place at a future date sub. to fulfillment of certain condition. |
| (vi) If buyer becomes insolvent before payment is made the seller has to deliver the goods to the official receiver unless he has lied on them. | (vi) Seller may refuse to deliver the goods to the official receiver.                                       |

Q) What is hire purchase.

- Ans: ① The hire purchaser becomes the owner of the asset after paying the last installment.  
 ② Every installment is treated as hire charge for using the asset.  
 ③ Hire purchaser can use the asset right after making the agreement with the hire vendor.  
 ④ The hire vendor has the right to repossess the asset in case of difficulties in obtaining the payment of installment.

Q) Disadvantages of hire purchase.

Ans:- The disadvantages of hire purchase are:-

- ① Ownership: Ownership of asset is transferred only after the payment of the last installment.
- ② The magnitude of fund involved in hire purchase is very small. and only small types of assets like office equipments, auto-mobiles, etc. are purchased through it.
- ③ The cost of financing through hire purchase is very high.

Q) Advantages of hire purchase.

Ans:- The advantages of hire purchase are:-

- ① Financing of an asset through hire purchase is very easy.
- ② Hire purchaser becomes the owner of the asset in future.
- ③ Hire purchaser gets the benefits of depreciation on asset ~~in case of~~ <sup>if</sup> hired by him/herself.
- ④ Hire purchaser is also enjoying the tax benefits on the interest payable by them.

- 8) ① The Sale of goods Act Applies only - (a) Movable goods.  
(b) Actionable goods.  
(c) Both (a) & (b) ✓  
(d) Immovable goods.
- ② Which Section lays down goods? - (a) Section 2(T) ✓ (c) Section 8(3)  
(b) Section 7(2). (d) Section 3(8).
- ③ Goods means - (a) Stocks and shares. (c) Movable & shares.  
(b) Growing Crops. (d) All of these. ✓
- ④ types of goods - (a) Specific goods (c) generic goods.  
(b) future goods (d) All of these. ✓
- ⑤ A Sale of One kg from 100 kg oil with merchant is a sell is called - (a) Specific goods  
(b) Generic goods. ✓  
(c) Future goods.  
(d) Both (a) & (c)
- ⑥ "A" agrees to sell "B" Sofa-Cum-Bed which he would be manufactured. It is a case of a sell called - (a) Specific goods. (c) future goods. ✓  
(b) generic goods. (d) Both (a) and (b)
- ⑦ When property in goods has not passed to buyer the unpaid Sellers Write of -  
(a) With holding delivery. (c) Both (a) and (b) ✓  
(b) Storage in transit. ~~(d) Both (a) and (b)~~
- ⑧ In Intention of the parties to transfer the property in goods from the seller to the buyer can be inferred from the - (a) terms of the Contract.  
(b) Conduct of the parties.  
(c) Circumstances of the case.  
(d) All of these. ✓
- ⑨ The Seller of goods is demand to do an Unpaid Seller when the true of price has not been paid to tendered. - (a) whole. (c) Substantial.  
(b) paid ✓ (d) minimal problem.