

NARESH
DHAWAN

Sale of Goods Act

Topic - Transfer of Property.

Business
Laws

For B.Com (Prog)
I. Year,
Semester - II

①

Date:

Page No:

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It is very important to determine that at what time the ownership of goods is passed from seller to Buyer. It is vital because of the following reasons:

① Risk Passes with ownership = If some loss occurs in respect of the goods then the seller will bear the loss if at the time of loss the ownership has not yet transferred to Buyer. However, this loss will be borne by Buyer if at the time of loss, the ownership has already transferred from seller to Buyer.

② Suit for recovery of price = If the ownership of goods has already transferred from ~~Buyer to~~ Seller to Buyer and the Buyer neglects to pay the price then seller can file a suit for recovery of price. However, if ownership is not yet transferred from seller to Buyer then the seller can file a suit for recovery of damages.

③ Action against third party = If loss has occurred in the goods because of some action of third party (other than Buyer

NARESH
DHANAN

For BCom (Prog.)
I Year, Semester II

BUSINESS LAWS

Sale of Goods ACT, 1930.

Transfer of Property

Aeroline

Date:

Page No:

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27

and seller), then seller will file a suit for recovery of loss if he has not transferred the ownership till the time of loss and if the ownership was already transferred from seller to buyer at the time of loss then the buyer will file a suit for recovery of loss against that third party.

Rules regarding transfer of ownership of Goods =

A) In respect of specific or ascertained goods

In respect of specific and ascertained goods the ownership transfers from seller to buyer as per the terms and conditions of contract of sale agreed between the two. However if nothing is agreed upon in this regard then following rules apply -

i) when goods are in a deliverable state - Deliverable state of goods is the position of goods in which buyer is bound to accept the goods according to terms and conditions of contract of sale. If at the

NARESH
DHAWAN

PER B. Com (Prog.) I.Yr.,
II Semester

Business Laws

Sale of Goods Act, 1930

Transfer of Property

3

At the time of Contract, the goods are in a deliverable state then the ownership transfers immediately from seller to Buyer.

ii Where something is to be done to put the goods in a deliverable state = The ownership transfers from seller to Buyer when the seller has done that and informs the Buyer about this.

iii When the seller has to measure, count, weight or test the goods for determination of price = The ownership of goods will transfer from seller to Buyer when the seller has measured, counted or weighed the goods and determined the total price and has informed the Buyer about this.

iv Where the goods are sold on Approval Basis (Sale or Return Basis) =

The ownership will transfer from Seller to Buyer in any of the following cases -

① If the Buyer has communicated his acceptance of goods to Seller.
OR

NARESH
DHANAN

For B.Com (Prog.) I.Ys.
II Semester

Business Laws -
Sale of Goods Act, 1930.

Transfer of Property

Acrolinc
Date: _____
Page No: _____
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4

(b) Where the Buyer fails to return the goods back to the seller in time fixed and if no time fixed then within a reasonable period of time.

(c) If the Buyer does something which shows that the Buyer has accepted the goods. For example - Buyer has given the cloth to tailor for stitching it into shirt.

In case of sale on Approval Basis, the ownership will transfer from seller to Buyer in any of the (a), (b), (c) above which ever occurs first.

(B) Transfer of ownership in respect of unascertained and future goods =. The ownership of unascertained goods transfer from seller to Buyer when the goods of same description are unconditionally appropriated by seller with the assent of Buyer or vice versa for completion of contract of sale of goods.

Appropriation of goods means -