

NARESH
D HAWAN

Business Law

BCAA (Prog.) I.Ys.
Semester

Sale of Goods Act, 1930

Rights of Unpaid seller

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Who is an Unpaid seller - According to section 4(1) of the act the seller of goods is deemed to be unpaid:

- when the whole price has not been paid to him or.

- where a Bill of exchange, cheque or any other Negotiable Instrument was received by seller for payment and which was subsequently dishonoured.

Hence the seller will be an unpaid seller if he has not been paid the full price where the goods are sold on cash basis OR where the goods are sold on credit for a ^{certain} period and the payment is not made and the period of credit has expired. OR, the Bill of Exchange or any other Negotiable Instrument was given to seller for payment of price and it was subsequently dishonoured.

However, where the ~~Buyer~~ Buyer proposed to make the payment and the seller refused to accept the payment, then such

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Seller will not be termed as unpaid seller.
Rights of an Unpaid Seller =

- ① Rights against the goods.
- ② Rights against the Buyer.

① Rights against the goods =

The unpaid seller has the following rights against the goods :-

A, where the ~~goods~~ ownership of the goods is transferred to the Buyer already :-

i, Right of Lien :- where the seller is in possession of goods sold by him then he can refuse to hand over the possession of goods to Buyer till the price is paid. This is called Right of Lien. This right arises in any of the following 3 situations :-

a where the goods are sold on cash basis and Buyer fails to pay the price
OR b where the goods are sold on credit for a certain period and the time of credit

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expired and the Buyer has not paid the price. OR

② where the Buyer has become Insolvent (even if time of credit has not expired).

Other important legal points regarding Right of Lien -

① Lien can be exercised only for price unpaid. It cannot be exercised for any other charges etc

② Lien can be exercised till the goods are in possession of seller. once the possession is lost by seller, lien is no more available.

③ Where seller has given part delivery of goods, the lien can be exercised on the balance of goods yet with the seller.

④ Lien can be exercised by unpaid seller even where he is in possession of the goods as agent or Bailee for the Buyer.

⑤ The lien shall terminate where

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The seller has delivered the goods to Buyer or his agent OR Goods are handed over to the carrier without reserving the right of disposal OR the seller has expressly waived his right.

It's Right of stoppage of goods in Transit = This right is just an extension of the right of lien. This right is exercised where the seller has parted with the possession of goods but they are in transit and the seller is unpaid and the Buyer is declared Insolvent. This right can be exercised when the Buyer has become Insolvent otherwise this right cannot be exercised by an Unpaid seller.

The goods are considered to be in transit :-

- i) when goods are handed over to the carrier for transmission to Buyer until the Buyer or his agent takes delivery of goods.
- ii) where the goods are rejected by the