

[Position of non-owner

In a contract of sales ownership or title of goods are transferred from one person to another in exchange of money, the main motive behind the making of the contract is a transfer of rightful ownership and possession from a seller to a buyer, so this element lays down the groundwork for the making of a contract. According to a Latin maxim, *Nemo dat quod non-habet* which means that no one can transfer a better title than he himself has, only the owner of the goods can pass the lawful ownership or title of goods to the buyer. This principle is enshrined in Section 27 of The Sale of Goods Act, if the title of seller is defective and if this defective title is passed on to the buyer, then the buyer's title would also be the same, and he will have no rights on goods despite the fact that he acted in good faith and paid the price.

Exceptions

Nonetheless, there are certain exceptions to this rule under which a non-owner can convey a better title to the bona fide purchaser of goods for value.

Joint owner

According to Section 28, if more than one person has ownership rights in anything, and that thing is in the possession of co-owned with the prior approval of other co-owners, and co-owned sell that thing without consulting other co-owners, the buyer will not be deprived of complete ownership of that thing. But the transaction of sale and purchase should be in good faith from the buyer's side and buyer have no idea that the seller has no authority to sell that thing.

Mercantile agent

When a mercantile agent has the possession of goods with the consent of the owner, and further resells the goods, the rightful title will pass on to the buyer if the buyer has purchased in good faith and have no knowledge that seller has no authority.

Effect of estoppel

Estoppel comes from showing that the seller has the authority to sell. If by any act or conduct or words or declaration a person shows that ownership of goods rests with the seller or that person has an authority to sell goods, then, later on, he cannot claim that he is the sole owner of goods and the seller had no rights to sell the goods.

: Unpaid seller

Clause 3 of Section 54 states that when an unpaid seller has exercised his right of lien or stoppage resells the goods, the buyer will acquire the rightful title of goods notwithstanding that no notice of resale has been given to the original buyer.

: Possession under voidable contract

As per Section 29, if seller obtains possession of goods under voidable contracts such as coercion, fraud, misrepresentation or undue influence, and sell those goods before the voidable contract is, the buyer will get a good title to the goods. If the goods are in possession under voidable contract, the seller needs

to rescind that contract but before rescinding the contract if guilty party sell goods to another party who is not at fault and acted in good faith, then the real owner cannot claim the goods back because the buyer has rightful claim over the goods.

: There are two requirements to be fulfilled to claim this exception firstly, voidable contract, secondly, the contract should not be rescinded at the time of new contract.

The goods are obtained under a voidable contract rather than void or void ab initio. If the contract of possession of goods was void or void ab initio the buyer will not get any rightful possession because the seller cannot transfer a better title than he has.

: Seller/buyer in possession after/before the sale

Seller

According to Section 30 Clause 1 of The Sale of Goods Act, when seller has sold goods to buyer but the possession of goods remain with him, if during that possession seller sold that goods to someone else and that person has purchased goods in good faith and without notice of prior sales, he would have good title to them. It is essential that the seller should be in possession of goods as a seller not as an altered capacity like bailee.

For example, Aviral purchased a car from Vansh but the possession is still with Vansh, in the Vansh sold that car to Danny because he was getting a higher price. Herein, Danny does not know anything about previous sale and purchases the car in good faith. In this situation, Danny will get good title over the car and Aviral cannot claim that car back from Danny.

Buyer

According to Section 30 Clause 2 of The Sale of Goods Act, if a buyer resells the goods that he has obtained with the consent of the seller but the actual sales have not yet been made, if the buyer to whom goods have been resold have purchased the goods in good faith and without notice, he gets a rightful possession and ownership.

Sale under the Provisions of other Acts

Sale by an Official Receiver or Liquidator of the Company will give the purchaser a valid title.

Purchase of goods from a -finder of goods will get a valid title under circumstances [Section 169 of the Indian Contract Act, 1872]

A sale by a pawnee can convey a good title to the buyer [Section 176 of the Indian Contract Act, 1872]