

The phrase 'transfer of property in the goods' means transfer of ownership of the goods. On transfer of property in goods, the buyer becomes the owner of the goods and acquires all the rights held by the seller in respect of the goods sold. The rules regarding transfer of property in goods are as under:

### 1. Unascertained Goods

*ascertained*  
Ascertainment is the process by which the goods are identified and separated. When there is a contract for the sale of unascertained or future goods, the property in the goods does not pass to the buyer until the goods are ascertained. [Sec. 18]

#### EXAMPLE

A agrees to sell 100 kg of rice to B, out of the rice stored in a godown. B becomes the owner when 100 kg of rice is separated from the rest.

### 2. Intention of Parties

*For a Certain<sup>ed</sup> Goods*  
In contract of sale of specific or ascertained goods, the ownership transfers when the parties intend to transfer it. It depends on the terms of the contract. It may transfer at the time of the contract or when the goods are delivered or when the payment is made. [Sec. 19]

#### EXAMPLE

X sells a book to B on cash basis. B becomes the owner when he makes the payment.

*a- Terms & Condition  
b- Conduct of Parties  
c- Circumstance of C*

### 3. Goods in Deliverable State

When there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer as soon as the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of goods, or both, is postponed. [Sec. 20]

#### EXAMPLE

B offers to sell his horse to A. The horse will be delivered on the stated day and price will be paid at the time of delivery. A accepts the offer. A becomes the owner when the offer is accepted.

### 4. Goods to be put in Deliverable State

*specific*  
The expression 'put the goods into deliverable state' means doing an act like polishing, packing, loading or giving a finished shape to the goods etc. Where there is a contract for the sale of specific goods and the seller is bound to



do something to the goods for the purpose of putting them into a deliverable state, the ownership does not pass until such thing is done and the buyer has notice thereof. [Sec. 21]

### EXAMPLE

- a. S sells a scooter to B for Rs. 50,000. B pays at the time of contract. But contract requires S to paint the scooter in gray colour. B will become the owner when the scooter is painted and B has notice of it.
- b. A machine weighing 30 tons and fixed in a concrete floor was sold. A part of the machine was damaged while being removed. Held, the buyer could refuse to take the machine as it was not in a deliverable state. (Underwood vs. BC Cement Syndicate)

### 5. Goods to be Measured

When there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act is done and the buyer has notice thereof. [Sec. 22]

### EXAMPLE

Z sold 289 bales of goatskins to F. Before Z could count them, the bales were destroyed by fire. Held, the loss fell on Z because the ownership had not transferred to F. (Zagury vs. Furnell)

### 6. Unconditional Appropriation

When there is a contract for the sale of unascertained or future goods by description, the property in the goods passes to the buyer when goods of that description in deliverable state are unconditionally appropriated to the contract, either by the seller with assent of the buyer or by the buyer with assent of the seller. [Sec. 23(1)]

### EXAMPLE

T bought 20 bags of sugar from R. R filled up 20 bags. T took delivery of 4 bags and promised to take the rest later. T failed to collect the remaining. R sued for price. Held, ownership had passed to the buyer. (Rhode vs. Thwaites)

### 7. Delivery to Carrier

The seller is deemed to have appropriated the goods when he delivers the goods to a carrier for transmission to the buyer. The delivery of goods to a carrier is considered the delivery to the buyer and the ownership at once transfers to the buyer. The term appropriation involves separating, weighing, measuring, counting or similar acts. [Sec. 23(2)]

### EXAMPLE

B buys a fridge from A, a shopkeeper. When A handovers the fridge to the carrier, the ownership transfers to B.



## 8. Goods Delivered on Approval

When the goods are delivered to the buyer on approval or 'on sale or return' or other similar terms, the property therein passes to the buyer:

- a. When he gives his acceptance to the seller or does any other act adopting the transaction.
- b. If he does not give his acceptance to the seller but retains the goods without giving notice of rejection beyond the time fixed for the return of goods, or if no time has been fixed on the expiry of a reasonable time. [Sec. 24].

### **EXAMPLES**

- a. A sends jewelry to B on terms of sale or return. The jewelry becomes B's property when B retains them.
- b. B delivered a horse to E on terms of sale or return within 8 days. The horse died on the 3rd day without any fault of E. Held, B was to bear the loss as the horse was still his property. (Elphick vs. Barnes)