

SALE BY NON-OWNERS

1. Sale by a Mercantile Agent (Section 27)

A **mercantile agent** is a professional agent who, in the ordinary course of business, is authorized to sell goods, consign goods for sale, or raise money on the security of goods. Even without explicit authority from the owner, a mercantile agent can transfer a valid title to a buyer if the following are met:

- **Possession with Consent:** The agent must hold the goods or their documents (e.g., bill of lading) with the owner's consent.
- **Ordinary Course of Business:** The sale must be typical for the agent's profession (e.g., selling cars in a dealership).
- **Good Faith:** The buyer must purchase the goods honestly and without knowledge that the agent lacks authority.

Example: In *Folkes vs King*, the agent sold a car below the minimum price set by the owner. The buyer, unaware of the restrictions, gained good title because the sale appeared legitimate.

2. Transfer of Title by Estoppel (Section 27)

Estoppel prevents the true owner from denying the authority of a seller if the owner's actions or inactions mislead the buyer.

- **Owner's Representation:** The owner's words, actions, or omissions give the impression that the seller has the right to sell.
- **Buyer's Reliance:** The buyer must rely on this impression and act in good faith.

Scenarios of Estoppel:

1. **Standing By:** The owner is present during the sale but does not object.
2. **Active Assistance:** The owner helps the seller appear authorized (e.g., signing documents).
3. **Insignia of Ownership:** The owner allows the goods to remain with the seller, creating an impression of ownership.

Example: In *O'Connor vs Clark*, an owner painted their employee's name on a wagon to mislead buyers. The buyer, unaware of the truth, acquired good title.

3. Sale by a Joint Owner (Section 28)

When goods are owned jointly by multiple people, any one joint owner who has sole possession (with the consent of others) can sell the goods. The buyer acquires complete ownership if:

- The buyer acts in **good faith** (without fraud or dishonesty).
- The buyer has **no notice** that the seller lacks authority.

Example: A cow owned by three brothers is left in one brother's possession. If that brother sells it to a buyer in good faith, the buyer acquires full ownership.

4. Sale under Voidable Contracts (Section 29)

A **voidable contract** is valid until the aggrieved party chooses to cancel it. If a person acquires goods under such a contract and sells them before the contract is rescinded:

- The buyer gets good title if they act in **good faith** and are unaware of the seller's defective title.

Conditions:

- The original contract must be voidable (e.g., obtained through fraud or coercion).

- The goods must be sold before rescission of the original contract.
Example: If a fraudulent buyer acquires goods and sells them to an innocent third party, the third party gets good title, even if the original seller cancels the contract later.

5. Seller in Possession After Sale (Section 30(1))

A seller who retains possession of goods after selling them can transfer good title to a second buyer if:

- The seller remains in **possession as the seller**, not as a bailee or hirer.
- The second buyer acts in **good faith** without notice of the first sale.

Explanation: This rule protects buyers who deal with sellers appearing to retain ownership.

6. Buyer in Possession After Agreement to Buy (Section 30(2))

When a buyer acquires goods through an **agreement to buy** (e.g., hire-purchase agreements) but doesn't own them outright, they can still transfer valid title to a sub-buyer if:

- The possession was obtained with the seller's consent.
- The sub-buyer acts in **good faith** without notice of the original seller's rights.

Example: In a hire-purchase deal, the buyer pays in installments but sells the goods before completing payments. The sub-buyer acquires good title, though the original seller may claim damages from the first buyer.

7. Resale by an Unpaid Seller (Section 54(3))

An **unpaid seller** can exercise the right of lien (retaining possession) or stoppage in transit if the buyer fails to pay. If the seller resells the goods under such circumstances, the second buyer acquires good title, even if:

- The original buyer was unaware of the resale.
- The resale didn't fully comply with notification requirements.

8. Exceptions under Other Acts

Other laws also allow non-owners to transfer good title in specific situations:

- **Finder of Lost Goods (Indian Contract Act, Section 169):** A finder can sell goods if the owner cannot be found or refuses to pay reasonable compensation.
- **Pawnee or Pledgee (Indian Contract Act, Section 176):** A pledgee can sell pledged goods upon default of payment by the pledgor.
- **Insolvency Situations:** Official receivers or liquidators can sell goods of insolvent individuals or companies, even if they don't own them.
- **Negotiable Instruments Act:** A holder in due course (e.g., someone who accepts a check in good faith) gets better title than the original holder, even if the instrument was stolen.