Contract of Sale

SALE

ownership is transferred immediately

X —— Rice ——→ Y (0)

←—— ₹100/kg

X —— Shirt ——→ Y (0)
@ ₹500

AGREEMENT TO SELL

ownership is transferred

A) At a future date

X —— 100 kgs ——→ Y
Rice @ ₹100/kg
After 1 week

X —— 100 shirts ——→ Y
after 10 days

OR

B) on fulfillment of certain conditions

offers to sell

X —— scooter ——→ Y
₹20,000

←—— agrees to buy

PROVIDED X gets the scooter serviced & repaired

IF, PROVIDED

These words indicate 'condition'

X agrees- 100 shirts Y at a future date	**Example 1:** X agrees to supply 100 shirts to Y on 15th January. It is an agreement to sell since X agrees to transfer ownership of shirts to Y at a future time.
A offers to sell scooter B Agrees to buy after repairing and servicing by A	**Example 2:** B agrees to buy A' scooter provided A gets it repaired and serviced in two days. This agreement shall become sale when the condition is fulfilled by A.

Distinction between Sale and Agreement to sell

Sale	Agreement to sell
1) Transfer of property Where under a contract of sale, the property in goods is immediately transferred from the seller to the buyer, the contract is called a sale	Where under a contract of sale, the transfer of property in goods is to take place at a future time or subject to some condition, contract is called agreement to sell
2) Nature of contract It is an executed contract as all the formalities are completed. Buyer becomes owner immediately.	It is an executory contract as all the formalities are not completed. Buyer becomes owner at a future date.
3) Transfer of risk Since ownership is transferred immediately, buyer is responsible for any loss or destruction of goods, even if the goods are in the possession of the seller.	Since the ownership is to be transferred at a future date, the seller is responsible for any loss or destruction of goods, even if the goods are in the possession of the buyer.
4) Right of buyer against seller's breach If the seller refuses to deliver the goods, the buyer may recover the goods from the seller by filing a suit in the court of law.	If the seller refuses to deliver the goods, the buyer cannot recover the goods from the seller. He can recover only damages from seller.
5) Nature of rights Sale creates *Jus in rem*	Agreement to sell creates *Jus in personam.*
6) Right of seller against buyer's breach If the buyer refuses to pay the price, the seller may recover it from the	If the buyer refuses pay the price, the seller cannot recover the it from the

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buyer by filing a suit in the court of law.	buyer. He can recover only damages from the buyer.

V) Sale and Hire Purchase

Meaning of Hire-Purchase Agreement

Hire purchase agreement is a contract for hire of an asset and under which the hirer has an option to either

(a) purchase the goods after paying the hire charges and ultimately the purchase price or

(b) to return the goods and terminate the agreement.

Distinction between Sale and Hire Purchase

Sale	Hire purchase agreement
1) Nature of contract It is a contract of sale.	It is an agreement of hiring and hence an agreement to sell where hirer has an option to purchase.
2) Transfer of ownership Ownership of goods is transferred immediately.	Ownership of goods is transferred on the payment of the last instalment.
3) Possession of goods Possession of goods need not be transferred immediately.	Possession of goods is transferred immediately.
4) Right to terminate The buyer has no right to terminate the contract of sale.	The hirer has the right to terminate the agreement any time before ownership is transferred.
5) Right to repossess the goods The seller has no right to repossess the goods. He can sue for price only	The hire-vendor has right to repossess the goods if the hirer defaults.
6) Transfer of good title to third party The buyer can transfer a good title on sale of goods to the third party	The hirer cannot transfer a good title on sale of goods to third party since ownership has not been transferred.
7) Treatment of payment made by instalment The payment made by the buyer is treated as payment towards the price of the goods	The payment made by the hirer is treated as hire charges for the use of goods till the option to purchase the goods is exercised.

True test of hire purchase

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