

Bailment & Pledge

Bailment

- Section 148 defines “bailment” as the delivery of goods by one person to another for some purpose, upon a contract, that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.

- The person delivering the goods is called the “Bailor” and the person to whom they are delivered is called a “ Bailee”

Examples

- A delivers a piece of cloth to B, a tailor, to be stitched into a suit. There is a contract of Bailment between A and B.
- An Insurance Company places a damaged insured Car of A in the possession of R, A Mechanic. Here A is the Bailor, the insurance company is the Bailee and R the mechanic is the sub-bailee.

- Sometimes there may be a Bailment even without a contract. For example, when one person finds goods belonging to another, a relationship of bailee and bailor is automatically created between the finder and the owner.

Requisites of Bailment

- 1.Contract
- 2.Delivery of Possession of Goods
- 3.It must be for some purpose
- 4.Goods to be returned as soon as the purpose is achieved.

Classification of Bailment

1. For the exclusive benefit of the bailor
2. For the exclusive benefit of the bailee
3. For the mutual benefit of the bailor and the bailee

It could also be classified into

1. Gratuitous Bailment
2. Non-Gratuitous Bailment

Duties of Bailor

- 1.To disclose known faults
- 2.To bear extraordinary expenses of bailment
- 3.To indemnify bailee for loss in case of premature termination of gratuitous bailment
- 4.To receive back the goods
- 5.To indemnify the bailee

Duties of Bailee

- 1.To take reasonable care of the goods bailed
- 2.Not to make any unauthorized use of goods
- 3.Not to mix the goods bailed with his own goods
- 4.Not to set up an adverse title
- 5.To return any accretion to the goods
- 6.To return the goods

Rights of Bailor

- 1.Enforcement of Rights
- 2.Avoidance of Contract
- 3.To Demand the Return of goods lent gratuitously
- 4.Compensation from a wrongdoer

Rights of Bailee

1. Delivery of goods to one of several joint bailors of goods
2. Delivery of goods to bailor without title
3. Right to apply to Court to stop delivery
4. Right of action against trespassers
5. Bailee's lien

Law Relating to Lien

- “Lien” means the right of a person to retain possession of some goods belonging to another until some debt or claim of the person in possession is satisfied.
- The person who has the possession of the goods belonging to another person is entitled to retain them until the debt due to him has been paid.

Possession is essential for exercising the right of lien, and in order to create a lien the possession must be

- ◉ Rightful
- ◉ Not for a particular purpose, and
- ◉ Continuous

Right of Lien may arise

- ◉ By Statute
- ◉ By express or implied contract
- ◉ Or by a general course of dealing between the parties in a particular trade.

- A Lien may be a (1) Particular Lien, or (2) a General Lien
- Particular Lien – A particular lien is one which is available to the bailee against only those goods in respect of which he has rendered some service involving the exercise of labour or skill.
- Example – A gives a piece of cloth to B, a tailor, to make into a Coat. B promises to deliver the coat to A as soon as it is finished. B is entitled to retain the Coat till he is paid for.

- General Lien- A General Lien is a right to retain all the goods or any property which is in the possession of the holder of another until all the claims of the holder are satisfied.
- For example ,if two securities are given to a banker but a loan is taken only against one of the securities,the banker may retain both of the securities,until his claim is satisfied.

Finder of Goods

- A person who comes by an article is not obliged to pick it up or take charge of it. But if he picks it up he becomes a bailee.
- Sec.71 lays down that “a person, who finds goods belonging to another and takes them into his custody is subject to the same responsibility as a bailee.”

Rights of Finder of Goods

1. Right of Lien
2. Right to Sue for reward
3. Right of Sale

Obligation of Finder of Goods

1. He must take reasonable care of the goods and if, in spite of this, the goods are destroyed he is not responsible for any loss.
2. He must not use the goods for his own purpose
3. He must not mix the goods with his own goods.
4. He must try to find out the owner of the goods.

Termination of Bailment

1. On the expiry of the Period
2. On the achievement of the Object
3. Inconsistent use of Goods
4. Destruction of the Subject Matter
5. Gratuitous Bailment
6. Death of the Bailor or Bailee

Pledge

- The bailment of Goods as Security for payment of a debt or performance of a promise is called “Pledge”.
- A Pledge is a bailment for Security.
- It is a special kind of Bailment.
- For example if A borrows Rs.200 from B and keeps his watch as security for payment of the debt, the bailment of watch is a pledge.