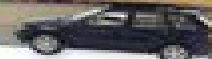




SALES & LEASES OF GOODS

LEASE CONTRACT

LEASING



GENERAL CONSIDERATIONS

COMMERCIAL LAW

- Under the **Uniform Commercial Code (UCC)**, transactions take various forms, subject matter is personal property, and parties include merchants and consumers
- Parties to contract of **sale** include seller and buyer (U. 2-103(1))
- Parties to **lease** of goods are lessor and lessee (U. 2A-103(1))
- Contracts for sale of goods are regulated by **UCC Article 2**; contracts for leases of goods are regulated by **UCC Article 2A**

CONTRACT FORMATION

IMPORTANCE OF AGREEMENT

- A **contract** is formed when Article 2 gives legal effect to parties' agreement in fact; total legal obligation that results from parties' agreement (U. 2-201(1)(b))
- An **agreement** is the bargain in fact of parties as found in their language or by implication from other circumstances (U.C., course of dealing, course of performance, usage of trade) (U. 1-205, 2-208)

OFFER & ACCEPTANCE

- An **offer** is display of willingness to enter into a bargain made to justify another person's understanding that assent to bargain is invited and ends it
- A **firm offer** (an option) may be created without consideration or reliance in a writing signed by a merchant
- An **acceptance** may be in any reasonable method or manner unless otherwise unambiguously indicated (U. 2-206(1))
- Offeree may accept by **promise, performance or communicating performance**
- A contract is formed if offeree gives definite acceptance with different terms or if there is conduct by both parties that recognizes a contract even when writings do not agree (U. 2-207)
- If contract is formed, then additional or different terms may become part of agreement if offeror has expressly assented to them

STATUS OF PHASES

- It conditions enforceability of an agreement with the presence of a **writing** indicating that the contract for sale has been made and signed by the offeree party (U. 2-201(1))
- Requirement is met even though writing does not contain all material terms or where merchant fails to object to satisfactory confirmation in writing sent by other merchant
- Other non-writing situations are included (e.g., specially manufactured goods, part performance, admission in court, reliance)
- Agreement is **not enforceable** beyond quantity of goods shown in writing or evidenced by performance or admission

GENERAL PRINCIPLES

- Emphasis is upon **agreement**, not a promise or consideration (U. 2-204)
- Less emphasis on **formalities**; best evidence of agreement may be parties' **conduct** rather than their words
- Parties' **intention** to make a contract is given legal protection, even though time of contract formation cannot be determined or material terms have not been agreed upon
- If parties intended to make a contract, but a material term has not been agreed, then court will supply a **reasonable term** and enforce bargain

THIRD PARTY CLAIMS

OWNERSHIP CLAIMS

- When an **owner** seeks to **replevin** goods sold by a seller to a buyer, that seller can only provide the buyer with title that is within his/her power to transfer (U. 2-403)
- Exceptions** occur when the owner has delivered goods to the seller in a **transaction of purchase** (later claimed to be voidable) and owner has **entrusted** goods (but not power to sell) to merchant where buyer makes a purchase in ordinary course of business

SECURITY INTEREST CLAIMS

- Security interests** in goods are created and perfected under Article 9
- If a secured party creates a **perfected security interest** in seller's goods, and seller sells them to buyer, then buyer is subject to security interest
- Buyer takes **free of security interest** if secured party authorized sale or buyer is a buyer in ordinary course of business and security interest was created by seller

SECURITY INTERESTS

- If seller creates a **security interest by agreement** or retention of title in goods sold and delivered to a buyer, problems of perfection of security interest, priority, and enforcement are governed by Article 9
- If seller **retains** or regains possession of goods upon buyer's **default**, then he/she may have **possessory security** under Article 2
- Security interest is created without security agreement and perfected without filing a finance statement

SELLER'S WARRANTY OF TITLE

- Seller makes a **warranty** to the buyer that title conveyed is good, its transfer rightful, and goods are free of any security interest (U. 2-312(2))
- Buyer's **damages** for breach include incidental and consequential damages (U. 2-714(2))

OTHER PARTIES' CLAIMS

- After delivery, **seller** has a limited right to **reclaim goods** from a buyer in a credit sale where buyer was insolvent (U. 2-505(2))
- Reclamation power is subject to **purchasers**, including a secured party, who have the right to **intervene** before a demand is made
- A **consignor of goods** is protected from claims of consignee's creditors and secured parties if appropriate notice is given
- A **buyer** who leases named goods in **seller's possession** may performance, replevin or reclamation
- A **purchaser** of those goods from seller may prevail if **retention of possession** is established to a merchant and sale was in the ordinary course of business
- Seller's **creditor** may prevail over buyer if retention or identification was **fraudulent**
- Buyer** in ordinary course of business may prevail over perfected security interest even though goods have been left with seller

Sales And Leases Of Goods

Marco Cascella



Sales And Leases Of Goods:

Sales And Leases Of Goods Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its power to stir emotions, provoke thought, and instigate transformation is truly remarkable. This extraordinary book, aptly titled "**Sales And Leases Of Goods**," published by a highly acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound affect our existence. Throughout this critique, we will delve in to the book is central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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