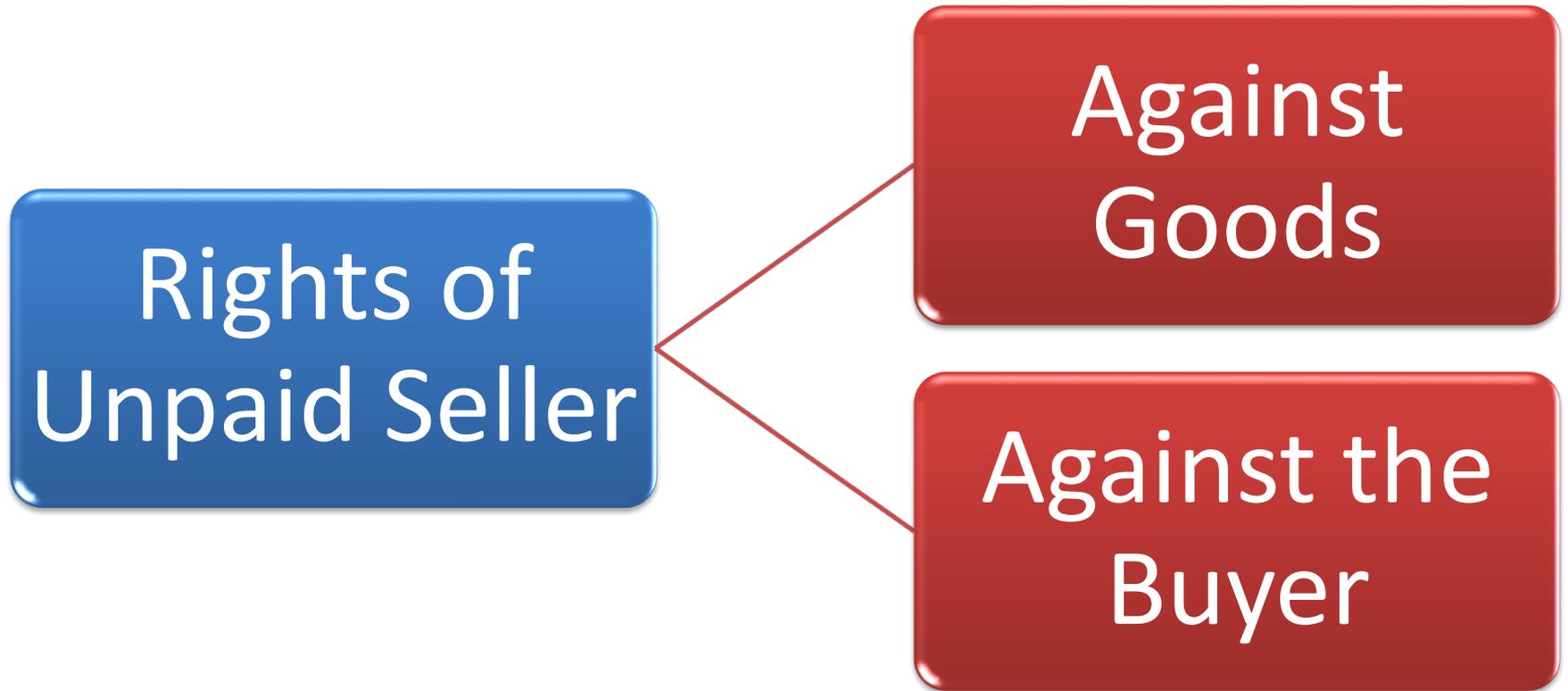


RIGHTS OF AN UNPAID SELLER

DEFINITION

- S. 45
- “One **who has not been paid** or tendered the whole of the price or one **who receives a bill of exchange or other negotiable instrument** as conditional payment and the condition on which it was received has not been fulfilled **by reason of the dishonour of the instrument** or otherwise.”
- An unpaid seller is one who is to get the price or consideration for the goods.



Rights of an unpaid seller

I) Against Goods

A) Where the property in goods has been passed to the buyer:

Under this category, the seller rights are being exercised against the goods where the ownership has already been transferred to the buyer.

❖ ***RIGHT OF LIEN***

❖ ***RIGHT OF STOPPAGE OF GOODS IN TRANSIT***

❖ ***RIGHT OF RESALE***

1. Right of lien

- This right means the right to retain the possession of goods until the full price is paid.
- This right can be exercised-
 - Where the goods have been sold on credit, but the term of credit has expired
 - Where the buyer becomes insolvent
 - Where the goods have been sold without any condition as to credit.

2. Right of stoppage of goods in transit

- The right of stoppage in transit means the right of stopping the goods **while they are in transit**, to **regain possession** and to **retain them** until the price is paid.
- The essential feature of this right is that the goods should be in possession of someone between the seller and buyer.

- This right can be exercised if :
 - The seller has parted with the possession of the goods
 - The buyer has not taken the possession of the goods
 - Buyer has become insolvent

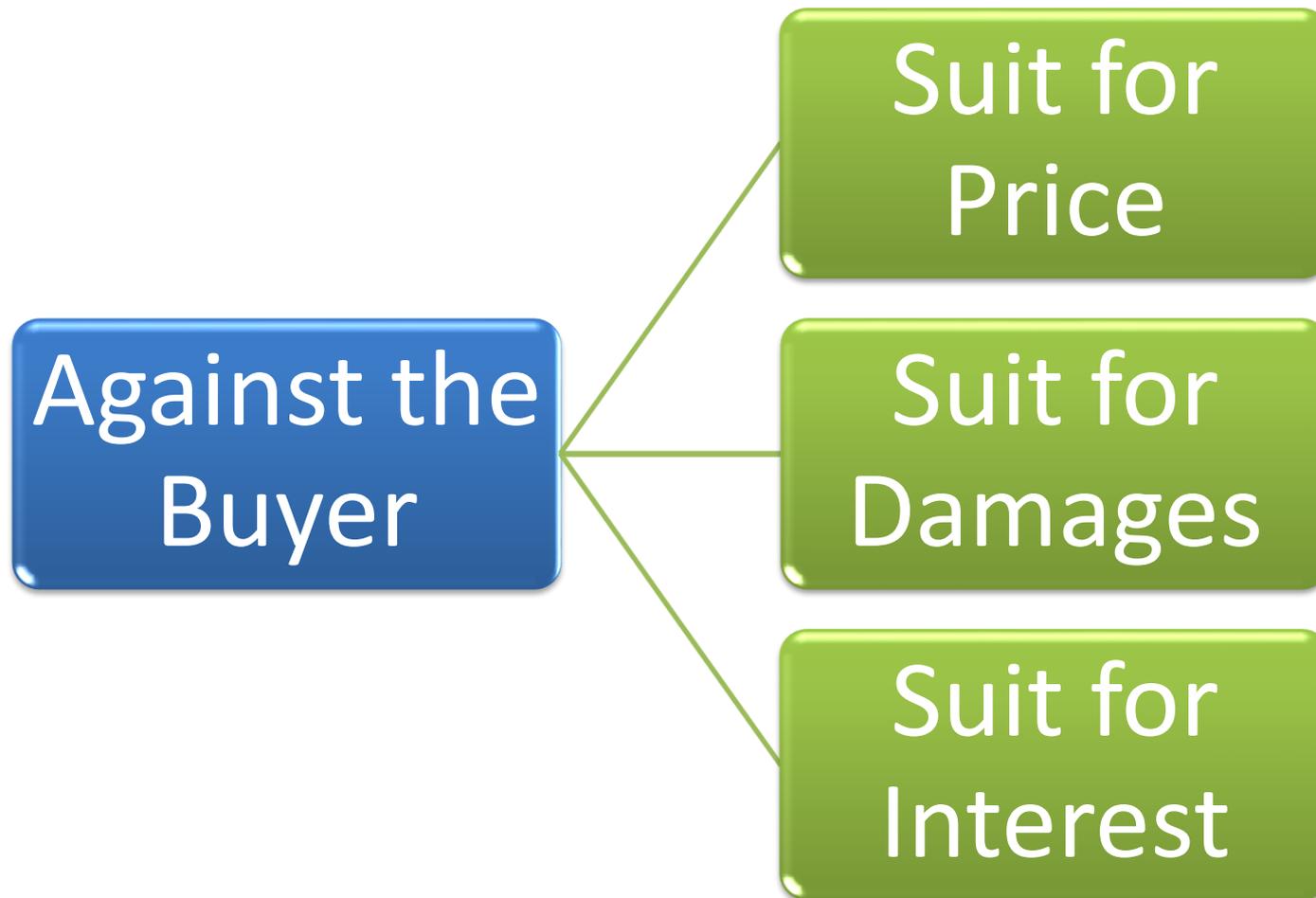
3. Right of resale:

The seller can re-sell the goods under the following circumstances-

- i) where the goods are of perishable nature
- ii) where the seller notifies the buyer of his intention to resell them, if the buyer doesn't pay within a reasonable time.

- **B) Where the property in goods has not been passed to the buyer:**

In such cases , the unpaid seller can exercise the right to withholding the delivery of the goods. This right is similar to rights of lien and stoppage in transit. Other remedies may include the right to claim damages for the loss suffered, special damages etc.



- a) Suit for Price: Where buyer wrongfully neglects or refuses to pay for the goods even after transfer of property in goods to him, the seller may sue him for the price of the goods
- b) Suit for damages - Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

c) Suit for Interest – if it has been agreed between the seller and the buyer on the price of the goods from the date on which payment becomes due, the seller may recover interest from the buyer.

If there is no specific agreement to this effect, the seller may charge interest on the price when it becomes due from such days as he may notify to the buyer.