

(2) When goods are delivered to the buyer on approval, or on trial, or on satisfaction, or other similar terms the property therein passes to the buyer:

(a) When he signifies his approval or acceptance to the seller, or does any other act adopting the transaction;

(b) If he does not signify his approval or acceptance to the seller, but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

Rule 4. (1) Where there is a contract to sell unascertained or future goods by description, and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller, with the assent of the buyer, or by the buyer, with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied, and may be given either before or after the appropriation made.

(2) Where, in pursuance of a contract to sell, the seller delivers the goods to the buyer, or to a carrier or other bailee (whether named by the buyer or not), for the purpose of transmission to or holding for the buyer, he is presumed to have unconditionally appropriated the goods to the contract, except in the cases provided for in the next rule and in section 38. This presumption is applicable, although by the terms of the contract the buyer is to pay the price before receiving delivery of the goods, and the goods are marked with the words "collect on delivery," or their equivalents.

Rule 5. If the contract to sell requires the seller to deliver the goods to the buyer, or at a particular place, or to pay the freight or cost of transportation to the buyer, or to a particular place, the property does not pass until the goods have been delivered to the buyer or reached the place agreed upon.

This section referred to in construing secs. 23 and 94. *Engineering & Machine Co. v. Swindell*, 161 Md. 592.

See notes to sec. 36.

Where no time is fixed by parties for return of property sold in accordance with rule 3 of this section, purchaser must give notice of his rejection within a reasonable time; where a horse is purchased in accordance with rule 3 and purchaser agrees to let seller know on Monday whether horse suits, but merely keeps horse without rejection until it dies on the following Wednesday, purchaser is liable for horse. *Rice v. Dinsmore*, 124 Md. 281.

Where a contract of sale gives buyer the right to refuse goods if they do not meet a certain test, and goods are burned up after they have been put in a car on buyer's siding and bill of lading turned over to buyer who has paid for three-fourths of the estimated value of the material, but goods have not yet been tested by buyer, there being no undue delay in arranging such test, loss falls on seller. Evidence. Usage. *Agri. Mfg. Co. v. Atlantic Fertilizer Co.*, 129 Md. 46. And see *Rylance v. Walker*, 129 Md. 481; *B. & O. R. R. Co. v. Carter*, 133 Md. 554.

The fact that the buyer of a horse communicates to seller that horse is slightly ill and being attended by buyer's veterinarian is not evidence of performance by buyer of his agreement to notify seller of his acceptance or rejection of horse. *Dinsmore v. Rice*, 128 Md. 209.

See notes to sec. 38.

An. Code, 1924, sec. 41. 1912, sec. 41. 1910, ch. 346, sec. 38 (p. 278).

**38.** (1) Where there is a contract to sell specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of possession or property in the goods until certain conditions have been fulfilled. The