

# Asset Purchase: Does It Grant Licensing Rights or Ownership?

Aditya Malhotra

Jindal Global Law School, Sonipat, Haryana

## Abstract

This article investigates the topic of companies maintaining products components after the assurance has expired, searching at the ethical and financial components of this practice as they relate to consumer rights and property possession in India. Through an examination of principles under the Sale of Goods Act, 1930 and the Transfer of Property Act, 1882, it evaluates how organizations, especially those within the generation business, retain, repair, and resell these additives, potentially leading to unjust enrichment. The research dives into the restricted repair tactics of IT corporations, such as Apple and Dell, and how they relate to the right-to-repair movement. It questions whether these techniques mirror licensing as opposed to safety rules is argued for via drawing parallels to the automotive industry. It also questions as to whether an asset purchase grants ownership rights or a mere licensing rights, due to the restrictions imposed by the manufacturers.

## Introduction

Ownership and property rights are on the contrary heart of each purchaser transaction, which guarantees that the purchaser keeps whole manipulate over the bought item. The Sale of Goods Act 1930 and the Transfer of Property Act, 1882 are two of India's most important frameworks that define those rights. Despite the regulations, many agencies, particularly the ones within the IT enterprise, preserve directly to used components after upkeep, even after the guarantee has ended. Concerns about consumer rights and possession are brought about through this hobby. In this research paper, we will examine these matters from the angle of Indian assets law and argue for more uniform patron safeguards.

Importantly outlining the techniques of moving assets rights in India is the Transfer of Property Act of 1882. The act says in section 8 that, in the event of a switch of belongings, the transferee is granted all rights that the transferor can lawfully bypass directly to them.<sup>1</sup> The idea of ownership in customer interactions is based in this perception. The patron will become the owner of the offered item and its components, such as any and all substitute parts. The statue states that unless in any other case agreed upon, the consumer ought to legally very own any components modified in the course of a repair.

After a transaction is finalized, the customer becomes the prison owner of the products according to the Sales of Goods Act, 1930. The consumer shall be taken into consideration the rightful owner of all products additives, inclusive of the ones which are changed, in line with Section 19 of the Act, which states that ownership of products is surpassed to the purchaser while meant.<sup>2</sup> When objects are given to the

---

<sup>1</sup> Section 8 of Transfer of Property Act, 1882.

<sup>2</sup> Section 19, 20 and 21 of The Sales of Goods Act, 1930.

consumer or a carrier for transmission, ownership is transferred according to Section 22.<sup>3</sup> It goes against those felony norms of groups to maintain on to previous additives without the purchaser's express permission.

These legal structures endorse that companies can also infringe on purchasers' property rights if they preserve replacement components without express authority or authorization. It appears that this approach is going against the idea that after ownership is transferred, all elements and components are considered part of it. The idea that once possession is transferred, it encompasses all parts of the product is supported with the aid of the Sales of Goods Act, 1930 and the Transfer of Property of 1882. Unjust enrichment may result from challenging this concept by preserving old components without settlement.<sup>4</sup>

### Why Companies Retain Old Parts

Concerns approximately the environment or the need to refurbish and recycle are commonplace motives corporates deliver to keep outdated components.<sup>5</sup> To illustrate a factor, Apple asserts that recycling out of date components aids in slicing down on technological waste and helps environment duty.<sup>6</sup> Nevertheless, those factors may want to make it hard to look how these behaviors assist agencies financially. One way to shop prices and growth incomes with the aid of reselling refurbished products. Unjust enrichment takes place whilst companies make the most of merchandise that belong to consumers.

### Refurbishment and Resale: Ethical Considerations

Repairing and resorting used components for his or her capacity reuse or resale is what refurbishment is all about. Businesses that behavior predominant refurbishing initiatives like Apple and Dell claim to do their component for the surroundings. But legally, this technique lets organizations make money from components that purchaser's own. Except in instances in which a specific agreement status in any other case, these components shall preserve to belong to the buyer underneath the Transfer of Property Act of 1882. It is referred to as unjust enrichment when an enterprise makes cash from its customers without their knowledge or permission.<sup>7</sup>

### The Right-To-Repair Movement and Its Implications

According to the Right-To-Repair movement, customers must be capable of restoring and altering matters anything they pick out. Consumers and advocacy companies try to get legislation mandating that organizations make restore instructions, hear and components available to the public and this movement is gaining international momentum, which includes India.<sup>8</sup> Consumers should be capable of repairing their personal objects without manufacturers imposing any restrictions, in keeping with the motion. Buyers

<sup>3</sup> Section 22 of The Sales of Goods Act, 1930.

<sup>4</sup> Apple. (n.d.). *Environment*. Apple (India). <https://www.apple.com/in/environment/>

<sup>5</sup> Apple. (n.d.-a). *Apple Legal - Legal - Repair terms and conditions - Apple*. Apple Legal. <https://www.apple.com/in/legal/sales-support/terms/repair/generalservice/servicetermsen/>

<sup>6</sup> *Sales terms and conditions for refurbished products*. (n.d.). [https://store.apple.com/Catalog/uk/Images/refurb\\_terms\\_and\\_conditions.html](https://store.apple.com/Catalog/uk/Images/refurb_terms_and_conditions.html).

<sup>7</sup> Kumar, S. (2024). A Comparative study on the Law of Unjust Enrichment: Global perspective. In *International Journal of Research Publication and Reviews* (Vol. 5, Issue 5, pp. 1053–1057) [Journal-article]. <https://ijrpr.com/uploads/V5ISSUE5/IJRPR27171.pdf>

<sup>8</sup> Ozturkcan, S. (2023). The right-to-repair movement: Sustainability and consumer rights. *Journal of Information Technology Teaching Cases*, 204388692311780. <https://doi.org/10.1177/20438869231178037>

are deemed to have full possession rights, including the potential to make repairs and modifications, consistent with the Transfer of Property Act, 1882.

### **The Impact of Restrictive Company Policies**

Technology companies like Apple and Dell have stringent techniques that simplest permit upkeep to authorized centers. Then try this out of a problem for protection and fine manipulate. However, those regulations growth repours cost and restrict customer preferences. While it is able to be economically useful for corporations to maintain on to previous components and restriction restore alternatives to their offerings, this does impede customer liberty. These guidelines forged doubt on customer protections and justice, and that they weaken the right-to-repair campaign.

### **Ownership vs. Licensing: Legal Interpretations under Indian Law**

Licensing is where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful and such right does not amount to an easement or an interest in the property, the right is called a 'license'.<sup>9</sup>

The right to own, use and take away property is blanketed underneath Transfer of Property Act, 1882. Everything that does into making a product fall under this category. However, digital organizations frequently blur the bounds among possession and licensing. Corporations limit customers' ownership rights through enforcing a licensing model and retaining manage of maintenance and old components.

The potential to use, alter and sell one's property is an inherent right of possession. Conversely, confined rights below certain situations are granted via licensing. Customers' rights appear to be more like a licensing settlement than real ownership, for the reason that old components are being saved without authorization. This is towards the spirit of the Sales of Goods Act of 1930 and the Transfer of Property Act of 1882.<sup>10</sup>

The ideas of possession beneath Indian regulation are challenged with the aid of keeping old quantities without explicit authorization. The possession of a product encompasses all its elements and components, in line with the Transfer of Property Act of 1882. Businesses may be violating client rights and taking part in unfair change practices if they maintain on to those components, according to the Consumer Protection Act of 2019.<sup>11</sup> This law protects customers from deceitful commercial enterprise processes and guarantees complete ownership of the products they buy.

### **Case Study: The Automotive Industry vs. Technology Companies**

Unless the purchaser specifies otherwise, following provider, maximum automobile vendors will go back consumable objects such as brake pads and oil filters. This approach adheres to the tips laid forth by means of Transfer of Property Act of 1882 on assets rights and possession. By accepting those components back, vehicle producers show their clients that they value their belongings rights and are being forthright through letting them hold entire control of their vehicle.

---

<sup>9</sup> The Indian Easement Act, 1882

<sup>10</sup> Yang, L. (2023, January 20). *Research: The Unintended Consequences of Right-to-Repair Laws*. Harvard Business Review. <https://hbr.org/2023/01/research-the-unintended-consequences-of-right-to-repair-laws>.

<sup>11</sup> Khan, M. A. (2021). CONSUMER PROTECTION UNDER INDIAN LEGAL FRAMEWORK. *Journal of Cardiovascular Disease Research*, 656–658. <https://www.jcdronline.org/admin/Uploads/Files/6311ab39d4da62.23187963.pdf>

On the contrary, tech groups often retain the possession of components, which raises questions on justice in contrast to vehicle agencies that return them to clients. This discrepancy highlights the want for enterprise-extensive requirements to assure the protection of customers. A capacity infringement of assets rights is the laptop's enterprise's habit of preserving on to outdated or old components without permission, which ends up in customers losing possession in their property.

The value of a product is relative to each component that makes it up. Since the customer has paid for every component that makes up a product, this should be his right to retain the old parts during servicing and not keep them with the manufacturers. This would be a case of unfair profit for the company and a corresponding loss for the customer, if manufacturers retain the old parts, repair them at a low cost, and sell them at much higher prices.

A customer safety hole is shown via the disparity among techniques in the era and automobile industry. Tech groups often maintain these components, which raises questions on justice, in contrast to vehicle agencies that return them to clients. This discrepancy highlights the want for enterprise-extensive requirement to assure the protection of consumer rights throughout all goods and offering.<sup>12</sup> A capacity infringement of assets rights is the laptop enterprise's habit of preserving on to outdated components without permission, which ends up in customers losing possession in their property.

Similarly, in an era digital revolution, the gaming industry has also created a legal disparity between physical and digital game purchases. Traditionally, physical buyers receive ownership rights over the disc, ensuring indefinite usage. In contrast, digital buyers, despite paying the same price, only receive a revocable license, leaving them vulnerable to unilateral access termination by companies like Sony. This introduces a contradiction with the Transfer of Property Act, 1882 (TPA), as both parties pay equally but enjoy disparate legal protection.

Under Section 54 of the TPA, a sale is defined as the passing of ownership in return for consideration. Physical buyers get property rights, including indefinite use and resale rights. Digital buyers only get a temporary and non-transferable license, contravening the concept of quid pro quo. The Supreme Court in *H.P. Housing and Urban Development Authority v. Ranjit Singh Rana* (2012) held that rights of ownership pass on payment, a right not given to digital buyers.

Section 6 of the TPA permits property transfer unless barred. Physical games may be resold, whereas digital licenses cannot be resold, making the distinction in law unequal. The Madras High Court in *Venkata Subbamma v. Subbaraju* (1922) held that property inherently is transferable unless barred. This points out the disparity, as digital consumers forfeit resale rights for paying an equal amount.<sup>13</sup>

Additionally, Section 8 of the TPA provides that all incidents of law, such as the right to enjoyment and possession, pass with the sale. Physical purchasers have these incidents, which allow them continued access even if the game is no longer produced. Digital purchasers, on the other hand, lose all of it upon revocation of license. The Supreme Court in *K.K. Modi v. K.N. Modi* (1998) held that incidents of ownership pass with the sale unless excepted, a right not available to digital consumers.

Sony's policy of withdrawing digital licenses without reimbursement results in financial disadvantage and consumer exploitation. Digital consumers lose the full value of their purchase, whereas offline buyers maintain offline access. This legal inequality necessitates reforms, making digital purchases ensure offline

<sup>12</sup> *Consumer Protection | Economic and Political Weekly*. (n.d.). <https://www.epw.in/tags/consumer-protection>.

<sup>13</sup> HC, A. (1964) *K. Venkatasubbamma And Ors. vs K. Subba Rao Nuna Venkatarami Setti And Ors* 1964.

access after revocation or offer refunds. The TPA must be revised to provide ownership rights for digital property, protecting consumer interests from corporate exploitation.

### **The Need for Universal and Stricter Laws**

The legal requirement to return and maintain legacy parts is important in order to protect clients and ensure fairness. Companies need to be legally compelled to return any replacement part back to consumers unless such customers provide their own consent for the good to be retained. This will ensure the property rights of the customer, as outlined under the Sale of Goods Act of 1930 and the Transfer of Property Act of 1882. In the same vein, consumer protection in the case of video games needs to extend to protect digital ownership rights. The difference in the ownership of digital and physical games, as seen in the case of Sony, is a legal loophole that unfairly harms digital consumers. While physical game owners still retain the right to play the game despite companies withdrawing online services, digital purchasers lose access to everything once the license is revoked. Such discriminatory treatment, although both consumers paying an equal amount, brings about inequity and contravenes the property ownership principles of the Transfer of Property Act, 1882. The Act formulates the rights of the owner to use, transfer, and hold the acquired property, which logically extends to digital content as well. Yet, corporations take advantage of the licensing mechanism to deny digital consumers their ownership rights, bringing about wrongful loss. Companies would need to further be required to make their repair policies readily accessible and transparent, along with component retention and related costs.

By being transparent with their rights and options, consumers would be able to make wise decisions before they contract for fixes. Similarly, in the context of computer games, companies must be forced to clearly denote the nature of the transaction—whether it's a license or a sale—along with distinct terms on how much access is granted and what consumer rights upon revocation are. This would do away with misleading marketing schemes that trick customers into thinking that they own digital content when all they have is a temporary license. India needs to pass right-to-repair laws that would force companies to provide customers permanent access to repair guides, spares, and tools without limitations. Likewise, in the video game industry, legislation needs to shift to grant customers permanent access to the game that they have paid for or provide refunds when their licenses are taken away.

Such laws would maintain equality between owning games digitally and owning them physically, so companies cannot unilaterally deprive consumers of their rights. It is crucial to have a common legal standard across all industries to protect consumer rights and prevent corporations from exploiting ownership ambiguity. This would avoid corporations unfairly profiting at consumers' expense. The government can also create a more just economy that consistently safeguards consumer rights by actively enforcing consumer protection regulations.

Providing consistent property rights, either in physical or electronic transactions, is necessary to maintain fairness, avoid exploitation, and ensure that consumers get the value they rightfully paid for.

### **Conclusion**

In conclusion, refurbishment activities by firms such as Apple, Dell, and Samsung are raising substantial moral and legal issues, which tend to escape consumers' attention. In the same vein, the Sony digital game license withdrawal case exposes yet another exploitation of consumers, which deals with discrepancies in ownership rights under the Transfer of Property Act, 1882. Although the consumers who buy physical copies of games have some form of ownership and access even when online services are withdrawn, digital

buyers have the loss of access in its entirety although they have paid the same amount of money. This difference brings an unequal distinction according to the purchase mode, stripping digital consumers of their right over their property. In addition, this discrepancy inflicts financial loss and disappointment upon consumers, being discriminated against based on uneven standards of ownership solely because they preferred a digital medium.

Whether it is seizing second-hand components or taking away digital ownership rights, companies take advantage of legal loopholes to pursue profit maximization, lack of proper regulation of digital licenses and ownership brings uncertainty, and customers are an easy target. Furthermore, the absence of regulation diminishes responsibility for firms, which allows them to put profits above consumer equity. The lack of clear policies also makes it a practice for firms to keep following the same with impunity. For this, stricter laws are required that explicitly state ownership rights in physical and virtual transactions. Consumer protection laws must be amended to safeguard digital ownership so that they are equivalent to physical purchases.