STUDY UNIT 4: SELLER'S DUTIES

1. Duty of Custody

Sellers obligation to take care of the thing until it is handed over.

Period: After the contract is concluded but before delivery takes place, the seller is obliged to look after the thing. The seller is liable if damage of the article is her fault.

Degree of Care:

Reasonable person’s degree of care required of the seller is that which a reasonable person would exercise on the thing. Parties may also agree on the seller to bestow more or less care on the article.

Mora Creditors/Debitors:

If there is mora by the purchaser regarding acceptance of delivery or mora by the seller to accept performance, the seller will be liable only if the thing is damaged intentionally by her gross negligence. If the seller is in mora regarding delivery of the thing, she is liable in all cases, except situations beyond her control.

THE PURCHASER’S REMEDIES:

1. If the thing sold which is tendered differs materially from the thing sold, the purchaser can cancel the contract & claim damages for her full loss.

2. Where damage of the thing was caused by 3rd person, the seller incurs no liability. If the risk is on the buyer, the seller must cede to the purchaser any claim she has against the 3rd person.

Imputed to person (to ascribe to charge a person)