

# *AUCTION*

PREPARED BY:

**Mr. Vimal K. Shah**

(9426159641)

vimalkshah1@gmail.com

**Mrs. Kavvita N.Choksi**

(9512333666)

kavitachoksi21@gmail.com

# AUCTION



# AUCTION

Auction is an process of buying and selling goods or services by offering them up for bid, taking bids, and then selling the item to the highest bidder.

An auction is generally an event in which goods are sold to the highest bidder. By being open to the public, an auction ensures a wide range of bids, and sometimes items at auction can fetch surprisingly high prices. The bidders, in turn, create their own market, determining on an individual basis how much they want to pay for an item, rather than having prices dictated by the seller.

# AUCTION

## USERS INVOLVED in traditional auction

- SELLERS
- BUYERS
- AUCTIONEER



**Buyer**



**Auctioneer**



**Seller**

# AUCTION

## Users Involved

- **Bidder**
  - One who is keen on buying products for a relatively competitive price by placing multiple bids
- **Auctioneer**
  - One who is responsible to judge the auction or the one who takes the decision of selecting a bid
- **Auction House/Admin/Seller**
  - Responsible to provide/arrange an opportunity for auctions



**Buyer /  
Bidder**

**Auctioneer/  
Admin**

**Seller**



## FEATURES OF THE AUCTION SALE

### ➤ **Advertisements:**

There has to be an advertisement or proclamation of auction sale, to make public know that such an auction is going to be conducted specifically in the form of public auction, which gives description of goods, date, time, venue of auction sale, the name of the auctioneer and such other conditions of sale like reserve price, and so on.

### ➤ **Particulars and Catalogues:**

In some auctions the Auctioneer offer particulars and catalogues of goods and other conditions of such auction for the prospective buyers to peruse prior to the auction.

### ➤ **Conduct of Sale:**

The advertisement specifies how the auction sale will be conducted, it will also specify if there is any other mode than the ordinary one.

### ➤ **Mis-description and Misrepresentation:**

If either party by guilt, fraud or of deceitful misrepresentation, whereby the bidders are misled; or if either party acts under a mistake as to a material and essential particular, the sale is thereby rendered voidable as to the party affected by the fraud or misrepresentation or the mistake so that he/she can, within a reasonable time, retract.

## FEATURES OF THE AUCTION SALE

### ➤ Auction Sale in Lots:

Auction can be in lots; each lot is subject of a separate contract under Sec. 64 (1), and this may be excluded by intention of parties to the contrary. If the goods are sold in separate lots by auction, each lot is prima facie the subject of a separate contract. The goods are displayed in lots, and the auctioneer's call to bid can amount to mere invitation, and each bid received would be an offer that could quality to become a contract, on acceptance by the auctioneer or his agent.

In a sale by auction, the seller may withdraw goods, or the bidder may retract his bid at any time before they are knocked off for so long as the final consent of both parties are not signified by the blow of the hammer, or in any other customary manner.

### ➤ Reserve Price:

Normal practice is to sell the goods or property to the highest bidder, with the restriction may be imposed by the seller/ Auctioneer of minimum sale price i.e. Reserve Price, at which the goods to be sold for and not for less than the amount reserved. Reserve price is not necessarily to be disclosed to the buyer. Condition of reserve price must be made known to the buyer under notification, or else, the reserve price cannot be applied, as reserve price.

## FEATURES OF THE AUCTION SALE

### ➤ **Right to Bid:**

Every bidding is nothing more than an offer on the one side, and not binding on either party till confirmed on the other. The Bidder may withdraw the bid before the fall of the hammer. No contract of sale is complete until it is accepted and remains merely an offer. Refusal of the buyer to carry through the bid or confirm the bid till the completion of the auction by the auctioneer and acceptance of the bid, there would be no cause of action for or in favour of the buyer. The auctioneer is equally competent to refuse, as is the buyer to withdraw the offer before acceptance. In case of a sale by government auction, the sale is not complete until the bid is accepted in the form of the confirmation of the collector. Once an offer is accepted, the goods become the property of the buyer on fall of hammer. It is immaterial whether there is any condition like goods not to be removed till payment received. Once the sale is completed, the buyer is the owner and can sell the property immediately.



## FEATURES OF THE AUCTION SALE

### ➤ **Bidding Agreement – Knock Out:**

For preventing Auction ring i.e. arrangement whereby the intending bidders agree not to bid against each other, the reason being to allow one of them to buy the goods as cheaply as possible and subsequently to hold their own private auction. This is a criminal offence under the English Act. The Seller can rescind such a sale at the auction. However, it does not apply to joint agreement to purchase goods such as joint venture.

The Auctions Bidding Agreements Act, 1927, provides that it is a criminal offence for a dealer to give or receive consideration etc., for abstaining from bidding. Such knockout agreements are illegal. A dealer is a person who in the normal course of business attends sales by auction for the purpose of purchasing goods with a view to reselling them. Knockout agreements by non-dealers are not necessarily illegal even after the above Act of 1927.

## FEATURES OF THE AUCTION SALE

### ➤ **Memorandum of Sale:**

The auctioneer has to record each and every offer with regard to its sequence and timing, and ultimately the final bid and its confirmation to avoid any mismanagement during the auction, so as to trace out the bidding agreement of the buyers in case there is any, or to keep in check. In case if the seller has reserved his right to bid, he is not misusing it.

### ➤ **Duties of Vendor, Purchaser and Public:**

It is the duty of the vendor to represent the correct description of the goods to be sold in auction under a advertisement/proclamation. The duty of the purchaser is to deposit the auction money with the auctioneer of the seller and complete the sale procedure as the time stipulated in such auction sale.

**The deposit:** The bidder becomes purchaser as soon as his offer is final one and it is his duty thereafter to deposit the amount as specified in the condition of auction and subsequently to complete the payment as per the condition of mode of payment as specified in the advertisement.

### **Authority of the Auctioneer:**

- (i) Implied authority to sell the goods on behalf of the seller
- (ii) Implied authority to sign the contract on behalf of the seller, but this does not extend to sale of unsold goods
- (iii) To receive the deposit from the buyer as per the condition of the auction sale
- (iv) To receive consideration price.

The authority committed to an auctioneer is a personal trust which he cannot delegate to another without the consent of the owner. He cannot, therefore authorize his clerk to act as agent for his employer, in his absence.

An auctioneer, like every other agent, cannot, ordinarily, purchase the goods of his principal either on his own account, or on behalf of a third person, which may tend directly to the furtherance of fraud.

The auctioneer has no authority to:

- (i) Sell by private contract - even if this were to fetch more price than the reserved price.
- (ii) To rescind the contract.
- (iii) To warrant the goods sold.
- (iv) To deliver the goods sold without payment of price.
- (v) To allow the buyer to set off dues to him from the seller.

## **Rights and Duties of Auctioneer:**

### ***(a) Rights:***

The auctioneer is the agent of the vendor for the purpose of sale, and has ordinary rights and liabilities of a special agent. He has therefore, a claim on compensation, which is ordinarily in the form of a commission for services, and is determined, in absence of any special agreement, by the common usage and also a right to claim a reimbursement for all expenses and advances, properly incurred by him in the course of his agency.

He is also entitled to sue either party, while he has a beneficial interest. He may, therefore, personally sue his principal for damages, or expenses, or for his commission, or he may as representative of the seller sue the buyer for the price of goods.

### ***(b) Duties:***

The duties of the auctioneer are in the first place, to take care of the goods, sent to him for sale. Again it is his duty to observe strictly all the instructions of his principal and all the conditions of the sale. If he deviates from them, he will be personally liable for the consequences.

Where an auctioneer, after a sale by public auction, receives a deposit thereof from the vendee, it is his duty, as the agent, or rather as the stakeholder of both vendor and vendee, to retain the deposit until the sale is complete, and it is ascertained to whom the money belongs.

Thank

You

