BLOGS

Notes on Modes of Transfer of Property

Ruchika Mohapatra · 14 Mar 2023

Definition of Mode of Transfer

A “mode of transfer” in the Transfer of Property Act refers to the various ways or methods through which the ownership or interest in a property can be transferred from one person to another.

The modes of transfer of property are important because they provide a legally recognized and binding way for ownership to be transferred, ensure clarity and certainty in ownership, protect property rights, and facilitate the transfer of ownership after death.

Modes of Transfer of Property

Under the Transfer of Property Act, there are five modes of transfer of property. These modes of transfer may be subject to various conditions and restrictions, as prescribed by law, and must be executed in accordance with the provisions of the Transfer of Property Act. The various modes of transfer of property are:

Sale: Sale is the transfer of ownership of property from one person (seller) to another person (buyer) for a price. The sale is complete when the buyer pays the full consideration and the seller delivers the property. The seller must be the owner of the property or be authorized to sell the property by the owner. The transfer of ownership must take place immediately, or at a future date specified in the sale agreement.

Gift: Gift is the transfer of ownership of property from one person (donor) to another person (donee) without any consideration. The gift is complete when the donor delivers the property to the donee and the donee accepts it. Section 122 of the Transfer of Property Act defines gift. Once the gift is made, it becomes irrevocable. The donor cannot revoke the gift, and the donee cannot return the gift. However, if the donee dies before accepting the gift, the gift becomes void. Similarly, if the donee dies after accepting the gift, but before the gift is registered, the gift becomes void.

Exchange: Exchange is the transfer of ownership of property from one person to another person, where both parties transfer their ownership rights to each other. The exchange is complete when both parties deliver their respective properties to each other. The exchange must be mutually agreed upon by both parties, and the terms and conditions of the exchange, such as the properties being exchanged, the value of the properties, and any additional payments, must be clearly defined in writing.

Lease: Lease is the transfer of the right to use and enjoy the property for a certain period of time from one person (lessor) to another person (lessee) for a consideration. The lease is complete when the lessor delivers possession of the property to the lessee. A lease is a legally recognized mode of transfer of property, and it must be executed in accordance with the applicable laws and regulations. A lease may be terminated by either party in accordance with the terms of the agreement or the applicable laws.

Mortgage: Mortgage is the transfer of an interest in the property to secure a loan or debt. The person who gives the mortgage is called the mortgagor, and the person who receives it is called the mortgagee. The mortgage is complete when the mortgagor delivers the possession of the property to the mortgagee as security for the loan. The mortgage creates a security interest in the property, which gives the mortgagee the right to foreclose on the property in the event of default by the mortgagor. The mortgage may also be transferable to another party, subject to the terms and conditions of the mortgage agreement and applicable laws.