

## Bailment and Pledge

Bailment and Pledge are two special contracts that are often confused. Every pledge is a bailment but every bailment is not pledge. **Bailment means a delivery of goods from one person to another for a special purpose. Whereas Pledge means delivery of goods as security for the payment of debt or performance of a promise. Therefore, Bailment & Pledge are two different contracts. Pledge is a special kind of bailment.**

**Bailment** A bailment is a special contract defined under section 148 of the Indian Contract Act, 1872. It is derived from a French word i.e. “bailer” which means “to deliver”. The etymological meaning of bailment is “handing over” or “change of possession of goods”. By bailment, we mean delivery of goods from one person to another for a special purpose on the contract that they shall reimburse the goods on the fulfilment of the purpose or dispose of them as per the direction of the bailor. The person who delivers the goods is known as bailor. And the person to whom the goods are given is known as Bailee. And the property bailed is known as Bailed Property.

### Essentials of Bailment

- There shall be a contract between the parties for the delivery of goods,
  - The goods shall be delivered for a special purpose only,
  - Bailment can only be done for movable goods and not for immovable goods or money,
  - There shall be a transfer of possession of goods,
  - Ownership is not transferred to Bailee, therefore Bailor remains the owner,
  - Bailee is duty bound to deliver the same goods back and not any other goods.
- **Exception:** *The money deposited in the bank shall not account to bailment as the money returned by the bank would not be the same identical notes. And it is one of the essentials of the bailment that same goods are to be delivered back.*

**Pledge** Pledge is a kind of bailment. Pledge is also known as Pawn. It is defined under section 172 of the Indian Contract Act, 1892. By pledge, we mean bailment of goods as a security for the repayment of debt or loan advanced or performance of an obligation or promise. The person who pledges the goods as security is known as Pledger or Pawnor and the person in whose favour the goods are pledged is known as Pledgee or Pawnee.

## Essentials of Pledge

Since Pledge is a special kind of bailment, therefore all the essentials of bailment are also the essentials of the pledge. Apart from that, the other essentials of the pledge are:

- There shall be a bailment for security against payment or performance of the promise,
  - The subject matter of pledge is goods,
  - Goods pledged for shall be in existence,
  - There shall be the delivery of goods from pledger to pledgee,
  - There is no transfer of ownership in case of the pledge.
- **Exception:** *In exception circumstances pledgee has the right to sell the movable goods or property that are been pledged.*

## Difference between Bailment and Pledge

Basis	Bailment	Pledge
Meaning	Transfer of goods from one person to another for a specific purpose is known as the bailment.	Transfer of goods from one person to another as security for repayment of debt is known as the pledge.
Defined In	It is defined under section 148 of the Indian Contract Act, 1872.	It is defined under section 172 of the Indian Contract Act, 1872.
Parties	The person who delivers the bailed goods is	The person who delivers the pledged goods

	known as Bailor and the person receiving such goods is known as Bailee.	is known as Pledger or Pawnor and the person receiving such goods is known as Pledgee or Pawnee.
<b>Consideration</b>	The consideration may or may not be present.	Consideration is always there.
<b>Right to Sell</b>	Bailee has no right to sell the goods bailed.	Pledgee or Pawnee has the right to sell the goods.
<b>Use of Goods</b>	Bailee can use the goods only for a specific purpose only and not otherwise.	Pledgee or Pawnee cannot use the goods pledged.
<b>Purpose</b>	The purpose of bailed goods is for safekeeping or repairs etc.	The purpose of pledged goods is to act as security for repayment of debt or performance of the promise.

