

**[Bom.] [Contract Act, S. 171 - Lien - Bailment - Section 171](#) of the said Act expresses the common law principle that if a man has an article delivered to him, on the improvement of which he has to bestow trouble and express, he has right to retain each until his demand is paid. In its primary or legal sense, lien means a right of common law in a person to retain that which is rightfully and continuously in their possession belonging to another until the present and accrued claims (of the person in possession) are satisfied. - Thus, from the expression bankers lien it is cleared that Bank overall forms of security that are deposited by the borrower in the ordinary course of business, there has to be a relationship of banker and customer between them - Lien contemplated under Section 171 of the said Act relates to goods bailed to bank - Strictly, it is confined to securities and properties in the custody of a banker - Section 171 of the said Act expresses goods bailed to them - The provision, therefore, indicates that the right to retain goods bailed is based on contract and retaining the same in absence of contract is not permissible. **

Held,

Section 171 employs the expression goods bailed to them. The word bailment has been defined in section 148 of the said Act to mean delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. Section 160 of the said Act stipulates that it is the duty of the bailee to return the goods bailed, without demand, or the purpose for which they were bailed having been accomplished. Similarly, under section 172 of the said Act, pledge has been defined as bailment of goods as security for payment of a debt or performance of a promise. Under section 174 of the said Act, the pawnee cannot in absence of a contract to that effect, retain the goods pledged for any debt or promise other than the debt or promise over which they are pledged. These provisions, therefore, indicate that the right to retain goods bailed is based on a contract and retaining the same in absence of any contract is not permissible. The only right that has been recognized with regard to goods bailed is the right of general lien of a banker to retain as security for a general balance of account any goods bailed to them. It is, therefore, clear that such right of general lien cannot be extended by a Banker for any other purpose after the general balance of account has been cleared by the person bailing the goods. Permitting a Banker to extend its right of general lien even after clearance of the debt would result in negating the effects of the words as a security for a general balance of account. In any event, exercise of such general lien after determination of the relationship of Banker and customer does not arise at all.

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Contract Act, S. 171 - Return of title papers - Bank retaining title documents of property wrt a loan which is satisfied - Retaining under general lien of another loan in default - Though the petitioner has satisfied the loan amount obtained to

purchase the flat but he is also the borrower and the guarantor in respect of another loan account regarding the loan which was obtained for the Company - S. 171 indicate that the right to retain goods bailed is based on a contract and retaining the same in absence of any contract is not permissible - The only right that has been recognized with regard to goods bailed is the right of general lien of a banker to retain as security for a general balance of account any goods bailed to them - It is, therefore, clear that such right of general lien cannot be extended by a Banker for any other purpose after the general balance of account has been cleared by the person bailing the goods - Permitting a Banker to extend its right of general lien even after clearance of the debt would result in negating the effects of the words as a security for a general balance of account - Exercise of such general lien after determination of the relationship of Banker and customer does not arise at all - Petitioner has cleared the entire dues in respect of loan which was obtained by him in his individual capacity to purchase the flat - The said loan transaction came to an end, therefore, the relationship of the banker and customer between the petitioner and the respondent in respect of the concerned loan account came to an end as he has repaid the amount - The relationship of banker and customer could not have been continued when the petitioner has repaid the amount as the entire loan account is satisfied - The said transaction has been completed and there is no further relationship between the petitioner and the Bank as a banker and customer - Admittedly, said security was given against the loan amount which was already satisfied by the petitioner - In such a situation, it is not open for the respondent- Bank to continue to exercise its general lien for the security deposited with it especially when the entire amount was repaid - Such a general lien is not being exercised for a general balance of account as required under Section 171 of the said Act - Moreover, it would not be open for the Bank to exercise its right of general lien for the securities on the pretext of the banker and customer relationship - It cannot exercise such general lien under Section 171 of the said Act thus, there is no justification on the part of the respondent-Bank to retain the said documents by relying upon the provisions of Section 171 of the said Act. [Para 14, 17]

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