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GUARDING YOUR CLICKS: DECODING CAVEAT EMPTOR IN THE WORLD OF ONLINE SHOPPING

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ABSTRACT

In today's consumer-driven society, the customer is considered paramount. Imposing a legal obligation on buyers to exercise extreme caution to safeguard themselves from potential fraud by sellers would be counterproductive for the growth of trade and commerce. The doctrine of caveat emptor, emphasising buyer be aware, emerged in this context. However, as modernisation and industrialisation progressed, there arose a need for a legal principle that could protect buyers without burdening them with undue responsibilities. This void was addressed by the caveat venditor, shifting the responsibility onto sellers to exercise caution. In common law jurisdictions like India, it is challenging to outrightly 'replace' one principle with another. Instead, there is a need for a balanced approach that acknowledges the evolving dynamics of trade and commerce. . If a defect arises in the goods, addressing the issues with the products and transactions becomes crucial. Exploring historical methods of goods supply before the 21st century is essential to understand how sellers managed transactions. In the researcher's examination, distinctions between international commercial transactions and other types are discussed. Additionally, the research delves into the ways consumers protected their rights before the 21st century and explores changes implemented in the 21st century to enhance consumer rights protection.

KEYWORDS: E-commerce, Trade, Caveat venditor, Caveat emptor, Sale and Purchase

Introduction

Caveat emptor, a Latin term translating to "let the purchaser beware," places the responsibility on buyers to ensure that the goods they acquire meet their specifications. In cases where purchased goods are later discovered to be damaged or unusable, the onus falls on the purchaser, absolving any third party of blame.

Historically, the roots of caveat emptor trace back to the Middle Ages, when a barter system prevailed as the primary mode of trade. Its application as a legal principle emerged in the late 17th century in England and America (Adha & Sakina, 2011), and Malaysia has since incorporated this doctrine into various statutes. Originally suited for traditional face-to-face transactions, caveat emptor is encountering new challenges in the contemporary era, particularly with the rise of online commerce.

Amidst the trend of online buying, challenges to consumers have surfaced. Platforms like Shopee experienced heightened consumer engagement, with small and medium entrepreneurs capitalizing on this trend to showcase and sell their products. However, the realm of online commerce introduces distinct risks for consumers, including undelivered goods, delayed deliveries, and the receipt of damaged or unusable products (Siti, 2020). Against this backdrop, this article seeks to delve deeply into the application of caveat emptor in the context of online sale and purchase contracts, where the traditional principle faces new complexities. Additionally, the Latin maxim Caveat Venditor, 'Let the seller beware,' adapted to protect buyer interests, will be explored to elucidate the evolving dynamics in the seller's responsibility for the products they offer in the online marketplace. During the medieval period when the overall volume of traded commodities was relatively low and the goods being exchanged were largely uniform, one could reasonably argue in favour of the relevance of caveat emptor. However, in the contemporary world, where market demands necessitate differentiated commodities, it becomes nearly impractical for a buyer to scrutinize latent defects in the products they are acquiring. Additionally, in an era where marketplaces were physically present, buyers had the chance to inspect the goods before purchasing, thereby justifying the application of caveat emptor. The paper revolves around the historical background, online purchases, The relevance of Caveat Emptor despite the rise of Caveat Venditor. Caveat emptor and caveat venditor are entrenched legal doctrines that have regulated commercial transactions for centuries. The principle of caveat emptor, translating to "let the buyer beware," dictates that it is the buyer's responsibility to thoroughly examine and assess the quality, characteristics, and suitability of a product before committing to a purchase. On the other hand, caveat venditor, or "let the seller beware," places the burden on the seller to ensure that the goods or services they offer are of satisfactory quality,

fit for their intended purpose, and free from defects.

These doctrines have been central to discussions in legal and economic circles, sparking debates over their effectiveness in addressing risks and problems such as information asymmetry and adverse selection in sales transactions. Proponents of caveat emptor argue that it promotes market efficiency by encouraging buyers to conduct due diligence and negotiate terms that align with their preferences and needs. They contend that shifting the responsibility entirely onto buyers fosters a competitive environment where sellers are incentivized to innovate and improve their offerings to meet consumer demands.

On the contrary, advocates for caveat vendors assert that placing the burden of ensuring product quality and suitability squarely on sellers is essential for consumer protection. They argue that sellers often possess superior knowledge about the products they sell, and therefore have a greater ability to control and manage quality standards. By imposing legal obligations on sellers to deliver goods or services that meet specified standards, caveat venditor aims to reduce the risk of fraud, deception, and unfair trade practices, ultimately enhancing consumer trust and confidence in the marketplace.

The debate surrounding these doctrines has been enriched by a wealth of scholarly literature and empirical studies. Researchers have explored various aspects, including the impact of legal frameworks on market dynamics, consumer behaviour under different regulatory regimes, and the effectiveness of alternative approaches in addressing market failures. By critically analyzing these insights, policymakers and practitioners gain valuable insights into the strengths, weaknesses, and implications of caveat emptor and caveat venditor, facilitating informed decision-making and regulatory reforms to promote fair and efficient markets.

Historical background

In the 19th century, common law's stance toward buyers was encapsulated by the principle of "Caveat emptor," signifying "let the buyer beware." This principle underscored that a purchaser bore the responsibility to meticulously inspect and assess the suitability of the product, avoiding risks associated with its condition and quality through the procurement of a warranty. During the inception of the caveat emptor rule, it was stringent, allowing little room for subsequent modifications. Notably, in the English Sale of Goods Act of 1893, it is evident that the seller's obligations regarding disclosure were minimal when a product was sold. The rule did not impose a duty on the seller to furnish information, emphasizing the buyer's paramount responsibility for a thorough examination of the goods. The act prioritized the buyer's scrutiny over any other obligation. Concepts facilitating the transfer of responsibility for quality and fitness onto the

seller, such as the 'fitness of goods' and 'merchantability,' were not actively promoted during this period. The legal landscape at that time entrenched the notion that buyers must exercise prudence and diligence in their transactions, relying on their assessments rather than expecting extensive disclosures from the seller. As economies evolved and markets expanded, caveat emptor persisted but underwent adaptations to accommodate changing commercial practices. However, it faced criticisms for placing an undue burden on buyers, particularly as industrialization led to increased complexity in products and transactions. Over time, legal systems began incorporating exceptions and implied warranties, mitigating the strict application of caveat emptor.¹

In the 20th century, consumer protection movements and legislative changes further influenced the application of caveat emptor. Laws were enacted to safeguard consumers from unfair trade practices, deceptive advertising, and defective products. The principle evolved to strike a balance between buyer awareness and the recognition of consumer rights, particularly in cases where sellers possessed superior knowledge or engaged in fraudulent practices.

The concept of caveat emptor, or "buyer beware," originated from the 17th-century English case *Chandelor v. Lupus (1603)*. In this case, a seller purchased a stone believing it possessed magical healing properties, only to discover it was fake. Despite the seller's request for a refund, the court ruled that since no implied warranty regarding the stone's quality existed, the buyer was responsible for examining the product before purchase. This case marked the emergence of caveat emptor, whereby sellers were not automatically liable for defects unless expressly warranted.²

In the well-known legal case of *Douglas v. Visser*, a situation arose where the seller of a property in need of repairs and renovations decided to put it up for sale. The buyer, fully aware of the property's condition, expressed interest in purchasing it. During negotiations, the seller made several vague statements regarding the property's state, which the buyer did not take seriously at the time. Subsequently, the buyer arranged for a property inspection to assess its condition. Upon³ inspection, the inspector identified some minor issues with the property but did not flag any major concerns that would compromise its structural integrity. However, after completing the purchase, the buyer discovered significant flaws in the property that were not disclosed during negotiations. This prompted the buyer to notify the inspector, who then concluded that the seller had intentionally concealed these flaws during the sale process. As a result, the purchaser initiated a fraud lawsuit against the seller, alleging deceptive practices.

¹ Johnson Jr, A.M., 2008. An economic analysis of the duty to disclosure information: lessons learned from the caveat emptor doctrine. *San Diego L. Rev.*, 45, p.79.

² Stonegate Legal (20 August 2023). "[Chandelor v Lopus \(1603\) 79 ER 3](#)"

³ Kishor, A., ASSESSMENT OF LAWS: FAKE DIGITAL ADVERTISEMENTS IN INDIA.

Legal principles governing such situations have evolved over time, influenced by statutes like the Sale of Goods Act of 1930 and provisions such as section 16, as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG) and its section 35. These legal frameworks establish warranties, conditions, and exceptions related to the sale of goods, including real property.

To protect buyers from deceptive practices by sellers, exceptions to the general norms of sales transactions have been developed, alongside rights and obligations for both sellers and consumers under consumer protection laws. These legal developments aim to ensure transparency and fairness in transactions involving goods and real estate, emphasizing the duty of sellers to disclose material information honestly and the rights of buyers to accurate representations of the goods they are purchasing.

During this period, English courts rejected the idea of implied warranties, holding sellers accountable solely for the representations they made in contracts. The doctrine of *caveat emptor*, therefore, became a fundamental principle in contract law, emphasizing the buyer's duty to thoroughly inspect goods before buying. In essence, *caveat emptor* dictates that sellers bear no responsibility if a purchased product fails to meet its intended purpose. Buyers are expected to conduct adequate examinations before making a purchase, relieving sellers of liability for any defects discovered post-sale. In the contemporary legal landscape, while *caveat emptor* remains relevant, it coexists with consumer protection laws and implied warranties. The historical background of *caveat emptor* reflects its origins in ancient legal philosophies, its adaptation to changing economic structures, and its ongoing role in shaping commercial transactions and consumer rights. The doctrine hinges on the principle that it is the buyer's responsibility to thoroughly inspect a product using their expertise and judgment. If, upon examination, the buyer finds the product to meet their standards and believes it will suit their needs, they are encouraged to proceed with the purchase. However, once the buyer has purchased after conducting their examination, they relinquish any subsequent rights to return the product, reject it, or seek damages from the seller. Any shortcomings or defects discovered post-purchase are deemed the buyer's responsibility, attributed to their negligence in the examination process.⁴

Originating in England, *caveat emptor* was historically enforced with strictness under common law. Sellers bore minimal legal obligations under statutes such as the English Sale of Goods Act of 1893. Sellers were not obligated to furnish comprehensive information to buyers, and the legal framework leaned towards protecting the interests of sellers rather than buyers.

⁴ Jayabalan, S. (2012). E-commerce and consumer protection: The importance of legislative measure. *Jurnal Undang-undang dan Masyarakat*, 16(1), 1-9.

The Principle of Buyer Beware in the Indian Legal Framework:

The doctrine of caveat emptor is based on the principle that consumers should fully examine the products before making the purchase. They should be satisfied that the product will meet their expectations. They will have no recourse against the seller if the products fail to stand up to their desires. The doctrine of caveat emptor is essential to balance the information asymmetry that exists between the buyer and the seller. The seller generally has more about the defects and potential lapses of the product than the buyer.

The analogy behind the formulation of this doctrine is that consumers should be aware of their rights and should carry out reasonable examinations before purchasing any product. This principle thus puts the onus on the consumers to protect their rights. Consumers are expected to analyse and examine a product using their independent judgement and skill. The doctrine of caveat emptor is often applied to public auctions. Thus, if any property or product is purchased in a public auction, it is purchased with the underlying implication that the buyer will have to take care of any deficiencies and litigations attached to the product or property.

The doctrine, in its current manifestation, has been deemed counterproductive to the advancement of commercial activities within an increasingly globalized milieu. There arises a necessity for provisions enabling buyers to seek recourse in instances where latent defects, beyond the scope of reasonable detection, manifest after purchase. This need for buyer protection gained traction notably in the legal dispute of *Priest v. Last*, wherein the precedent was set for buyers to expect product reliability based on the seller's expertise. Consequently, should a defect arise, buyers were granted the prerogative to reject the product. Courts further embraced the principle of reasonable examination, stipulating that if a defect remained undetectable through diligent inspection by the buyer, the seller could be held liable for its presence.

The resurgence of the caveat emptor principle underscores its significance in today's technologically-driven environment, particularly in empowering consumers and enhancing their awareness of rights. Originally designed to shield buyers, its contemporary relevance lies in safeguarding consumers against unwittingly accepting terms detrimental to their interests, especially evident in interactions with major multinational corporations offering online services. These companies typically require users to agree to their privacy policies, often resulting in users accepting terms without full comprehension of the implications.

A notable legal case, *M/S Indsil Hydro Power and Manganese Limited v. State of Kerala and Ors.* (2021), highlighted the judiciary's stance on contracts with dotted lines, deeming them unfair and lacking in equitable bargaining. The misuse of private consumer data by corporations further underscores the need for consumer empowerment. Despite the right to reject privacy and cookie

policies, consumers often fail to exercise these rights due to a lack of awareness. There is an urgent call to reinstate the caveat emptor principle as a tool for consumer empowerment. Policy interventions are necessary to ensure corporations bear the responsibility of informing consumers adequately and ensuring the proper exercise of their rights. Regulators should formulate guidelines that mandate corporations to proactively educate consumers about their rights and obligations, thereby fostering a fair and transparent consumer-business relationship in the digital age.

Modifications of the doctrine:

The pivotal case of *Wallis v. Russel* elucidated the confines of caveat emptor, clarifying that it underscores the buyer's obligation to exercise due care rather than gamble on the quality of a purchase. Notably, this doctrine applies exclusively to goods wherein the buyer can apply their discernment and expertise. Additionally, it is incumbent upon contracts to explicitly stipulate whether the buyer's reliance on the seller's proficiency is precluded.

Additionally, the discourse delves into the dynamic evolution of the caveat emptor doctrine over time. Noteworthy is the acknowledgement that this legal principle is not static; it undergoes changes and adaptations. The article suggests that shifts in the characteristics of properties being sold may have diminished the historical relevance of caveat emptor, possibly necessitating information disclosure during transactions. It also highlights the complexity of caveat emptor application by the courts, marked by exceptions and influenced by legislative interventions that, in certain instances, nullify its effects.⁵

Particularly in the realm of residential real estate transactions where exceptions to caveat emptor exist. It implies that legislative enactments may have played a role in challenging the traditional doctrine. Notably, the article introduces the concept of "caveat emptor light," signifying a modified version of the doctrine that seems to be emerging due to the impact of court opinions and legislative actions. The ultimate challenge posed to economic theories is to elucidate the reasons behind the rise of this modified form. In essence, the article concludes by emphasizing the potential of applying economic theories to bring clarity to existing puzzles within the framework of current transactional norms.

The original form of caveat emptor, as per common law, is considered inappropriate for modern residential real estate transactions, although it was well-suited for real estate dealings during its initial development and application. The transformation like real estate transactions is what

⁵ Bearman Jr, L., 1960. Caveat Emptor in Sales of Realty--Recent Assaults upon the Rule. Vand. L. Rev., 14, p.541.

rendered caveat emptor irrelevant in this context. However, the mandatory disclosure of all information from the seller (knower) to the buyer (knowee), mandated by courts and laws focusing on the parties' status, is also inconsistent with economic theories that advocate for specific disclosures. These new laws inefficiently demand the disclosure of all information, including that intentionally invested in and information equally accessible to both parties.

Consequently, a more efficient concept, referred to as "caveat emptor light," is emerging. This concept aligns with economic theories mandating information disclosure and correctly establishes the duty for information disclosure from the seller (knower) to the buyer (knowee). The evolution of caveat emptor also lends support to Professor Rose's theory outlined in her article, "Crystals and Mud in Property Law,"⁶. **Professor Rose**, analyzing the evolution of common law through judicial opinions, suggests that judicial decisions often transform a clear "crystal" rule, easy to interpret, like caveat emptor, into a complex "mud" rule that is challenging to apply due to its complexity or fact-dependent nature. In essence, the argument posits that courts have indeed transformed the straightforward caveat emptor rule into a complex one, prompting treatises and articles to be written about its applicability. The evolution of "caveat emptor light" is an attempt to convert the current complex rule back into a clear rule. This process, where the clear rule becomes complex and is now in the process of becoming clear again, results from courts trying to align the duties of parties to disclose information in residential real estate transactions with their knowledge about the properties being sold. Consumer and buyer protection in contracts for the sale of goods has become a central focus in recent times. However, this contemporary trend in trade practices emerged to address the longstanding principle of buyer beware, known as caveat emptor. Originally, the Caveat Emptor principle had widespread application, as markets were transparent, and buyers had ample opportunities to inspect goods for quality and suitability before purchase. Modern changes in the sale of goods contracts, where goods are often packaged, sealed, and held by the producer or seller, led to situations where buyers received goods without firsthand⁷ inspection. This necessitated the protection of prospective buyers from purchasing undesirable or unsuitable goods. The current approach to enforcing the sale of goods contracts recognizes the need for another principle known as caveat venditor, specifically designed to protect buyers in contracts of this nature. Strictly upholding Caveat Emptor in the sale of goods contracts would undermine the protection of buyers from entering into contracts for undesirable goods. Similarly, strictly upholding caveat venditor would

⁷ dha, A.H., & Sakina, S.A.Y. (2011). Consumer trade disputes: Alternative dispute resolution in Malaysia. Dewan Bahasa dan Pustaka: Kuala Lumpur.

undermine the rights of sellers to enforce valid sale of goods contracts.⁸ Consequently, there are conflicts in how courts across different legal systems approach the enforcement of buyers' rights in the sale of goods contracts when applying these two principles. In light of the evolving legal landscape, particularly with the development of *lex mercatoria* within the common law jurisdiction, there appears to be a gradual shift from protecting sellers toward more effectively safeguarding the interests of buyers. Against this backdrop, this study aims to analyze, compare, and determine the extent to which various legal jurisdictions prioritize the protection of buyers in the sale of goods contracts. Through thorough analysis and comparisons, the study aims to ascertain the degree to which different legal systems emphasize the protection of buyers, ultimately contributing to consumer protection and broader socio-economic interests.

Initially upheld rigorously by courts, gradually encountered criticism for its adverse implications on trade and commerce. Its strict application imposed a substantial burden on buyers, necessitating thorough product examination before purchase in all scenarios. However, this approach proved untenable as buyers often lacked the requisite expertise or information for comprehensive evaluation. Consequently, even in cases where buyers acted in good faith, the doctrine offered no recourse in the event of discovering latent defects post-purchase. Moreover, buyers frequently relied on the expertise and judgment of sellers during transactions, yet *caveat emptor* failed to afford them protection under such circumstances. Recognizing these shortcomings, there emerged a consensus that a more balanced approach was needed to foster harmonious buyer-seller relations and cultivate trust within commercial interactions.

The unyielding application of *caveat emptor* not only impeded the pursuit of damages for losses incurred due to defective goods but also hindered the establishment of a mutually beneficial relationship between buyers and sellers. As such, there arose a compelling need to moderate this doctrine, thereby promoting a climate of trust and facilitating smoother commercial transactions. Section 86 of the Consumer Protection Act delineates scenarios where sellers, even if not the manufacturers, can be held accountable for defective products. This liability extends to instances where the seller exerted significant control over product design, testing, packaging, or labelling, where modifications made by the seller lead to harm to the buyer, or where an express warranty provided by the seller is not met by the product. These provisions underscore a shift towards the doctrine of *caveat venditor*, which places responsibility on the seller, marking a departure from the traditional doctrine of *caveat emptor*.⁹

⁸ Kumar Singh, S. (2018). An analysis of *caveat emptor* and *caveat venditor* in international commercial transactions in the 21st century. *International Journal of Business and Management Invention*, 7(9), 47-54.

⁹ Halim, A.B. (2018). Does self-regulation provide legal protection and security to e-commerce consumers? *Electronic Commerce Research and Applications*.

A notable case illustrating this transition is *Smt. Rekha Sahu vs The Uco Bank (2013)*, where the petitioner acquired a plot through auction, only to discover encumbrances (electricity dues) attached to the property later. Seeking relief, the petitioner argued that as per the sale certificate, the property was supposed to be free from encumbrances. The auctioneers, citing caveat emptor, contended that the petitioner should have conducted a thorough inquiry before purchasing the plot. However, the Allahabad High Court ruled in favour of the petitioner, affirming a departure from caveat emptor towards caveat venditor. Consequently, the auctioneers were held liable for the electricity dues, signifying a shifting legal landscape in Indian jurisprudence.¹⁰ In certain instances, buyers procure goods not based on the seller's expertise, but rather on the product's trade name. To address this, the proviso to **Section 16(1) of the Act is implemented.**

It states:

"Provided that, in cases of contracts for the sale of a specified product under its patent or other trade names, there is no implied condition regarding fitness for any particular purpose."

However, the applicability of this provision hinges on the specific circumstances of each case. There are situations where consumers rely on the seller's expertise and recommendations when purchasing under a trade name. In such cases, the proviso does not apply, as the consumer's decision was based on the seller's judgment.

Legal frameworks involved for caveat emptor

The legal structure of caveat emptor, or the principle of "let the buyer beware," differs among jurisdictions and has changed over the years. In broad terms, caveat emptor obliges the buyer to carefully inspect and evaluate the quality and state of the goods before making a purchase. However, legal systems acknowledge the necessity for consumer protection, and there are situations where this principle might be tempered by alternative legal doctrines or statutes. Here are certain facets of legal frameworks associated with caveat emptor

- **Consumer Protection Act, 2019:** To protect consumers from deceptive business practices and guarantee the safety of products, numerous governments have passed consumer protection legislation. These regulations may limit the applicability of caveat emptor in some circumstances and place obligations on merchants to disclose truthful information about their items.
- **Implied warranties:** Certain legal systems acknowledge implicit warranties that, by default, cover a range of transaction types and guarantee that the products supplied adhere

¹⁰ Krishnan, S., Iiham, S., Siti, N., Nur, A., Syakila, S., & Wan, N.H. (2017). E-commerce issues on customer awareness in Malaysia. *International Journal of Finance and Accounting*, 6(1), 8-12.

to a set of quality and functional requirements. Caveat emptor may not be applied strictly in certain cases due to these warranties.

- **Indian Contract Act 1872;** The Indian Contract Act and caveat emptor mould the legal framework governing commercial transactions in India. The Act establishes the foundation for contracts, emphasizing good faith and delineating offer and acceptance. In sales, caveat emptor places the onus on the buyer to evaluate goods, as per Section 16 of the Sale of Goods Act. Yet, the Act incorporates vital safeguards for buyers, including implied conditions and warranties (Sections 14-17) dictating quality
- standards. Consumer protection laws and e-commerce regulations complement caveat emptor by preventing unfair practices and ensuring transparency. Courts, guided by the doctrine of good faith, may consider equitable factors, tempering the strict application of caveat emptor. Collectively, these provisions create a nuanced balance, safeguarding the interests of both buyers and sellers in India's dynamic commercial arena.
- **Information Technology 2000;** The Act is an essential enactment to protecting consumers' rights since it makes business transactions more transparent, accessible, and secure. Online platforms protect sensitive customer data by using encrypted communication and secure payment methods, which reduces the possibility of fraud and identity theft. Technology also makes it possible for customers to instantly obtain product reviews, information, and pricing comparisons, enabling them to make well-informed decisions. The rights of consumers are reinforced by e-commerce rules and digital consumer protection legislation, which set forth standards for equitable practices, dispute resolution procedures, and data privacy.
- **Section 16 of the Sale of Goods Act** pertains to the principle of caveat emptor. It states that, unless specified otherwise by the act or any concurrent law, there is no inherent guarantee or warranty regarding the quality or suitability of goods provided. This means that, by default, buyers are responsible for evaluating and ensuring the appropriateness of purchased goods, unless explicit conditions or warranties are outlined in the Sale of Goods Act or other prevailing legislation. The provision underscores the importance of explicit contractual terms and legal safeguards for consumers, emphasizing the need for buyers to be diligent and discerning in their assessments of goods before completing a purchase.

Exceptions to the doctrine

- **Seller Awareness of Buyer's Intent:** In situations where the seller possesses knowledge of the buyer's precise intentions for a potential purchase, the customary principle of caveat emptor may undergo modification. Rather than placing the entire burden on the buyer to scrutinize the goods, this scenario introduces an expectation of seller accountability. If the seller, with full awareness of the buyer's specific purpose, delivers a product that deviates from the buyer's needs, the caveat emptor principle may not shield the seller from responsibility. This places an inherent obligation on the seller to meet the explicit requirements communicated by the buyer, introducing an element of trust and reliance. Essentially, when the seller is cognizant of the buyer's intent, the dynamics shift, emphasizing the seller's role in ensuring the alignment of the provided product with the buyer's articulated needs and expectations.
- **Discrepancy Between Product Description and Function:** Buyers inherently rely on the accuracy of product descriptions, anticipating that the item will perform by the provided details. In instances where this expectation is not met, the principle of caveat emptor may not serve as an absolute defence for sellers. The accountability rests on sellers to uphold the integrity of their product descriptions, ensuring a harmonious correspondence between what is advertised and the actual capabilities of the product. This underscores the significance of transparency and precision in marketing practices, as buyers reasonably assume that the product's stated features align with its practical functionalities, forming a basis for their purchasing decisions. Consequently, sellers bear a responsibility to provide accurate representations and deviations from this commitment may diminish the applicability of caveat emptor.
- **Brand Reputation and Quality Assurance:** The principle placing the onus on buyers to scrutinize purchases, undergoes nuanced considerations when aligned with brand reputation and quality assurance. In instances where buyers engage with renowned brands or sellers distinguished for consistent quality, the standard caveat emptor dynamics shift. The buyer's reliance on a reputable brand is grounded in the expectation of receiving a product meeting established quality benchmarks. Although caveat emptor implies buyer responsibility, it acknowledges exceptions for reputable entities. Should quality concerns arise, they are perceived as anomalies rather than reflective of the norm. This exception underscores the symbiotic relationship between brand reputation and buyer expectations, where a brand's commitment to quality establishes a level of trust that mitigates the stringent application of caveat emptor. In such cases, buyers reasonably anticipate a

fulfilment of implied quality standards, enhancing consumer confidence and influencing the applicability of caveat emptor

- **Buyer's Consent for Fraudulent Deal:** In scenarios where a seller secures a buyer's consent through fraudulent or deceptive means, the standard principles of contract law, encompassing caveat emptor, undergo significant modification. While caveat emptor typically emphasizes buyer responsibility, it does not extend protection to sellers engaged in fraudulent dealings. Consent obtained through deceit or fraudulent practices is inherently deemed legally invalid, undermining the fundamental principles of contract formation. In such instances, the seller's actions transcend the boundaries of permissible commerce, and the law intervenes to safeguard the integrity of contractual agreements. This underscores the essential distinction between genuine consent, a cornerstone of contractual relationships, and consent tainted by fraud, nullifying the protective scope that caveat emptor may afford sellers under legitimate circumstances. Thus, the principles of contract law unequivocally reject the legitimacy of consent procured through fraudulent means, ensuring that sellers engaging in such practices do not benefit from the usual protective measures associated with caveat emptor.

In the legal case of *McKenzie and Co. v. Nagendra Nath (1919)*, the defendants, who were car dealers, approached the plaintiff upon learning of his interest in purchasing a car. They assured him of the excellent quality of Plymouth cars and persuaded him to buy one. However, after purchasing the car, a defect was discovered for which the plaintiff was asked to bear the repair costs. The plaintiff then initiated legal proceedings seeking damages for the defective car. The defendants argued that the defect was not a result of manufacturing faults but rather due to mishandling by the plaintiff.¹¹

The Calcutta High Court, applying Section 16(2), noted that the defendants, being car dealers dealing in a specific type of cars, impliedly warranted that the cars sold must be of merchantable quality. Addressing the argument about the defect emerging after using the car, the Court stated that under Section 16(2), any latent defect found later is considered to have existed from the start, provided it would have rendered the product unmerchantable if discovered during purchase. The Court analyzed that Plymouth cars typically do not develop the specific defects found in the plaintiff's car, indicating a manufacturing fault. Therefore, the plaintiff was deemed entitled to damages due to the breach of the implied warranty for merchantable quality.

While this principle underscores buyer diligence, there are instances where case laws have shaped

¹¹ Robert F. Cochran Jr., "Dangerous Products and Injured Bystanders" (1992) 81 Kentucky Law Journal.

and nuanced their application and functioning, the following significant cases are as follows that justifies the validity of the doctrine :

I. Eswari Petitioner v. The Regional Manager, Mstc Ltd. (2014 AIR MAD 182¹²);

In this case, it was decided that no plea based on misinterpretation, ignorance, or terms offered after the confirmation of a transaction would be accepted. The maxim "caveat emptor"—which emphasises the buyer's duty of awareness—was upheld. Inspection of the supplies at designated sites was required of registered parties or their authorised representatives. A copy of the e-Auction Catalogue that was acquired from the internet or their e-Auction Photo ID Card could be used to undertake this check. The caveat emptor theory of business transactions is reinforced by the ruling, which emphasises how crucial it is for buyers to be watchful and knowledgeable during the auction process.

II. M.S Padmanabha Iyer v. Devadass Sylus And Another, 1970 MLJ 2520¹³; The court here stated that the case has moved beyond the agreement-to-sell phase, and a full conveyance has occurred regarding the property. The nature of the sale deed (Ex. A-1) has been previously discussed, clarifying that it does not imply any indemnification covenant by the vendor to cover potential losses for the purchaser. The interpretation is straightforward: when the purchaser acquired the property under Ex. A-1, it was done with full awareness, and, consequently, the caveat emptor principle exclusively applied during that period. The purchaser accepted the property with full knowledge, indicating that they were well-informed and responsible for any associated risks.

III . Pawittar Singh Walia vs Union Territory, 2012 SCC ONLINE P&H 22072.

¹⁴ The principle of caveat emptor, emphasizing buyer awareness, is applicable in this case. The petitioner neither asserted nor argued before this court that, before engaging in an agreement to sell with the initial allottee on December 19, 1979, any attempts were made to inquire from the offices of the respondent authorities regarding the status of the commercial site in question. This includes whether it was devoid of any encumbrances and whether the original allottee possessed the legal authorization to sell the property to the petitioner. A meticulous examination of the agreement to sell dated December 19, 1979, also reveals that the original allottee did not possess a no-objection certificate issued by respondent No.3 at the time of agreeing with the petitioner.

¹² Eswari Petitioner v. The Regional Manager, Mstc Ltd. (2014 AIR MAD 182¹²);

¹³ . M.S Padmanabha Iyer v. Devadass Sylus And Another, 1970 MLJ 2520

¹⁴ Pawittar Singh Walia vs Union Territory, 2012 SCC ONLINE P&H 22072.

IV. M/S.Tci Distribution Centres Ltd. vs The Official Liquidator, 2009 MLJ 8 1238¹⁵;

In this case, The court firmly holds that the caveat emptor principle cannot be applied to the current situation. The Official Liquidator is obligated to reveal all significant facts within their knowledge and must not withhold any information related to the property's nature, description, extent, the unavailability of title deeds, the company's interest in the properties under liquidation, and any existing encumbrances. Contrary to the descriptions provided in the sale notice, which led to the purchaser's offer and the subsequent sale by the Official Liquidator, the court notes that these descriptions were inaccurate. In essence, the court emphasizes the Official Liquidator's duty to provide complete and accurate information, negating the application of caveat emptor in this case.

The term 'covered,' denoting caution, and the Latin term 'Emptor,' signifying buyer, collectively give rise to the doctrine of caveat emptor, translating to "let the buyers beware." This doctrine implies that the buyer is obligated to scrutinize the item they intend to purchase, and once the purchase is complete, they forfeit the right to reject the product. At its core, this principle emphasizes that the buyer must utilize their skills and judgment to choose what is most suitable for them. However, it does not impose an obligation for the buyer to conduct a meticulous examination of the product.¹⁶

CONCLUSION

In conclusion, while the caveat emptor principle traditionally places the onus on consumers to exercise caution in their purchases, its application in the realm of online transactions raises concerns about potential exploitation by unscrupulous sellers. The shift toward online commerce introduces complexities such as product quality issues, discrepancies in delivered goods, and delayed deliveries, posing significant risks for consumers. To address these challenges, there is a compelling need to reconsider the distribution of responsibilities in the buyer-seller relationship. Sellers, particularly in the online marketplace, should bear a greater burden of transparency and accountability to protect consumers from fraudulent practices. A proactive approach, backed by updated legal provisions regulating consumer protection, is crucial for fostering a trustworthy and secure environment for online sales and purchases. This shift not only safeguards consumer interests but also encourages responsible business conduct, ensuring the continued growth and sustainability of e-commerce.

¹⁵ M/S.Tci Distribution Centres Ltd. vs The Official Liquidator, 2009 MLJ 8 1238

SUGGESTIONS

The caveat emptor theory can be strengthened by supporting dependable internet review sites, promoting consumer education, pushing for more transparency in product information to the sellers, and enacting laws that set minimum requirements for product quality. Furthermore, it is crucial to support easily available procedures for resolving disputes, standardise contract language, bolster digital security, promote moral business conduct, and routinely evaluate consumer protection legislation. Working together, with stakeholders—government agencies, trade associations, and consumer advocacy organizations—is essential to establishing a fair market that preserves consumer awareness while tackling modern issues. By promoting an environment that is just, open, and safe for both consumers and sellers, these policies hope to ensure commercial trade is transparent in the e-commerce world.

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