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Condition and Warranty

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ABSTRACT

When two parties enter into a contract of sale, they set specific conditions that will affect the entire agreement. If these terms are not met, the party who is not at fault may reject the agreement and seek compensation for the damages he has experienced. Similar to condition, a warranty is also provided by the seller to the customer in the event that the purchased item has flaws and has to be replaced or fixed. In this case, only damages may be demanded; the contract cannot be rescinded. The definition of the terms condition and warranty, how they derive their validity in light of The Sale of Goods Act, 1930, and how a condition turns into a warranty will all be studied in this research paper.

Keywords: condition, warranty, sales, goods.

I. INTRODUCTION

A Condition is seen as being fundamental to the contract's primary goal and constitutes its heart. Therefore, depending on the violation and circumstances, the consequences would be either repudiation of the contract or a claim for damages, or both. A contract is voidable from the perspective of the contract's non-defaulting party when a condition is broken. However, a warranty is considered a collateral to the principal objective of a contract, thus if one party breaches the warranty, the non-defaulting party would only be able to sue for damages. The non-defaulting party has no right to repudiate the contract due to a breach of warranty by one of the parties, nor does it render the contract voidable. The same position is further clarified by Section 59 of the Sale of Goods Act, which states that when a seller breaches a warranty, the buyer is not given the right to terminate the contract; instead, he may only sue the seller for breach of warranty in exchange for a reduction or elimination of the purchase price. It depends on the circumstances whether a certain clause in the contract qualifies as a condition or a warranty. Both condition and warranty are important elements of a contract.

II. WHAT IS A CONDITION?

The term ³"condition" refers to a necessity or occurrence that must occur before another action may be finished. When a condition of a contract is violated, the victim has the unrestricted right

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³ CONDITION, <https://legalpaathshala.com/condition-and-warranty/> LAST VISITED ON 20.04.2023.

to reject the deal. In common language, a condition is a required provision of a contract upon which the entire contract depends. When engaging into a sales contract, the buyer and seller set certain conditions that must be met before the deal can be considered complete. These requirements are referred to as Conditions. To achieve the contract's goal, the requirements are necessary.

According to section 12(2) of the sale of goods act, 1930, " A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated"

EXAMPLE- B sold a phone to A on the stipulation that A would only buy the phone if it included all of the necessary features that A wanted. After receiving the phone, A learns that it lacks the requested functionality and has the option to end the contract.

2. Mahi purchased a suitcase from Jai, with the condition that the suitcase should carry 10 kg of weight. Later, Mahi discovered that the luggage could barely hold 5 kg of weight when she received it. Mahi has the option to repudiate (reject) the contract in this instance and pursue compensation for her losses.

III. TYPES OF CONDITIONS

1. **Expressed Condition**- It specifies that there must be or ought to be a need before the contract may be fulfilled. When both parties agree on the stated or express requirement, these conditions are often necessary for the contract to work. Expressed ⁴conditions are those that are specified in detail and agreed upon by the parties before the contract is signed.
2. **Implied Condition** -This type of conditions are implied to the parties and these conditions exist even if they are not there in the contract.
 - a. **Condition as to Title [Section 14(a)]**: -According to this clause, the seller is only permitted to sell the goods if he is the legitimate owner and is the one who is in possession of the title, or if he acts as the title holder's agent. A breach of the condition occurs when the seller sells the specified product to the buyer without really owning it.
 - b. **Sale by Description [Section 15]**: -A transaction in which the buyer buys things based only on the seller's description of them. There is an implied need that the products in a sale by description match the description provided in the catalogue For example- On his

⁴ TYPES OF CONDITIONS, <https://blog.iplayers.in/condition-and-warranty-under-sale-of-goods-act/> LAST VISITED ON 20.04.2023.

trip from Kolkata to Ahmedabad, "A" sold "B" 12 bags from the market famed for its waste silk. There is a need that the silk that Buyer 'B' purchases come from the waste silk market. 'B' is allowed to reject the items if it is not.

- c. **⁵Condition as to Fitness or Quality[section16(1)]:** – In general, there is no implicit warranty about the calibre or suitability of the items offered for a particular use. However, the seller may be deemed to have suggested the terms of fair quality or the items' suitability for a particular purpose. For instance: 'A' purchases a bottle of hot water from a pharmacy. A's wife suffered injuries when the bottle exploded. As a result, the requirement of reasonable fitness was broken. 'A' is thus entitled to the refund and damages for the loss.
- d. **Condition as to Merchantability [Section 16(2)]:** – Whether the seller is the manufacturer or not, there is an implied condition that the products will be of merchantable (fit for sale) quality when acquired by the description from a seller who deals with the items of that description. There is no implicit condition about any manufacturing flaw in the product, provided that the customer has examined the items before buying them. Examples include: "A" purchases a specific amount of black yarn from "B," a cotton seller. 'A' discovers that the black thread is being harmed by the white ants. Due to the breach of the merchantability criterion, "A" is allowed to reject the products as being unmerchantable and so unfit for sale.
- e. **Conditions of the Wholesomeness:-** Except as an implicit condition as to merchantability, there is another implied requirement for food products and supplies, which is that the commodities must be healthful. Examples include: 'A' gives 'B' milk. A sickness is discovered when B's wife eats milk, which includes germs. Later, the illness claims her life. As a result, the supply's appropriateness was not upheld, and in this instance, "A" was responsible for compensating "B" for damages.
- f. **⁶Condition as to Sale by Sample (Section 17):-** In a contract for sale by sample, it is implied that the bulk of the goods will meet the same quality standards as the sample, that the buyer will have a reasonable opportunity to compare the bulk of the goods to the sample, and that the goods will be free of any flaws that might render them unsellable (unfit for sale).

⁵ IMPLIED CONDITIONS, <https://www.toppr.com/guides/business-laws/the-sale-of-goods-act-1930/concept-of-condition-and-warranty/> LAST VISITED ON 20.04.2023.

⁶ IMPLIED CONDITIONS, <https://www.lawyersclubindia.com/articles/IMPLIED-CONDITIONS-IN-THE-SALE-OF-GOODS--379.asp> LAST VISITED ON 20.04.2023.

As an illustration, consider a firm that is supplying belts to the Indian Army that are constructed of a unique material. The belts are discovered to be manufactured of poor plastic that cannot be searched through general inspection. In this situation, the buyer is entitled to damages in addition to a price return.

IV. WHAT IS A WARRANTY?

⁷Warranty is defined under section 12(3) of the sales of goods act, 1930 in which a warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to claim for damages but not to a right to reject the goods and not to treat the contract as repudiated.

Example: Hari goes to a horse-trader and says that he wants to buy a good horse. The trader offers him a horse and says that it can run at 40 km an hour. Hari buys the horse. Later, he comes to know that the horse can only run 30 km an hour. Here the commitment of the trader is only a warranty and is not an essential condition of the contract. Non-fulfilment of a warranty only entitles the buyer to receive damages from the seller, not to repudiate the contract.

(A) Essentials of a warranty

1. It is collateral to the main purpose of the contract.
2. The breach of warranty causes damages to the aggrieved party and does not defeat the main purpose of the contract.
3. The aggrieved party can only claim the damages for breach of warranty but cannot repudiate the contract.

(B) Kinds of warranty

There are two types of warranty:

1. ⁸Expressed warranty

The warranties which are generally agreed by both the parties and are inserted in the contract, it is said to be expressed warranties.

2. Implied warranty

The term "implied warranties" refers to those guarantees that the parties took for granted to be included in the sale contract even though they did not expressly do so. The following implicit warranties are included in the selling contract, subject to the contract:

⁷ WARRANTY, <https://www.investopedia.com/terms/w/warranty.asp> LAST VISITED ON 20.04.2023.

⁸ TYPES OF WARRANTY, <https://blog.ipleaders.in/express-implied-warranties/> LAST VISITED ON 20.04.2023.

- **Warranty as to undisturbed possession**

⁹According to Section 14(2) of the relevant Act, there is an implied promise that the buyer will have continuous possession of the goods. In fact, the buyer has the right to sue the seller for breach of warranty if, after taking possession of the goods, he is later unhappy in any way.

For eg: 'X' purchased a second-hand bike from 'Y'. Unknown to the fact that the bike was a stolen one, he used the bike. Later, he was compelled to return the same. X is entitled to sue Y for the breach of warranty.

- **Warranty as to freedom from Encumbrances**

There is an implied warranty in Section 14(3) that the items will be free of any charge or encumbrances that are in the favour of any third party that the buyer is unaware of. But, if it can be demonstrated that the buyer was aware of the situation when the contract was made, he will have no legal recourse.

For eg: A pledges his goods with C for a loan of Rs. 20000 and promises him to give the possession. Later on, A sells those goods to B. B is entitled to claim the damages if he suffers any.

- **Implied warranty to disclose Dangerous nature of the goods sold**

It is the seller's responsibility to alert the buyer to any potential hazard if the items being sold are intrinsically harmful or are likely to be dangerous and the buyer is unaware of this fact. The vendor will be responsible if this guarantee is broken.

For eg: A purchases a horse from B if the horse is violent and then It is the duty of the seller to inform A about the probable danger. While riding the horse, A was inflicted with serious injuries. A is entitled to claim damages from B.

V. A CONDITION CAN BE TREATED AS A WARRANTY UNDER FOLLOWING INSTANCE

- ¹⁰When a buyer chooses to treated the breach of condition, as a breach of warranty. When this happens then the buyer may claim the damages only and cannot repudiate the contract.
- When a buyer altogether waives off the performance of condition.
- When a contract is non-severable and the buyer has accepted either the whole goods or

⁹ IMPLIED WARRANTIES, <https://blog.ipleaders.in/implied-conditions-and-warranties-under-the-sale-of-goods-act/> LAST VISITED ON 20.04.2023.

¹⁰ CONDITION AS WARRANTY, <https://www.legalserviceindia.com/legal/article-2168-when-is-condition-treated-as-warranty-.html> LAST VISITED ON 20.04.2023.

any part thereof.

- When the fulfilment of any condition or warranty is excused by law by reason of impossibility or otherwise.

VI. WHAT IS DOCTRINE OF CAVEAT EMPTOR?

The Latin phrase¹¹"Caveat Emptor" means "let the buyer beware." In other words, it is not the seller's responsibility to bring out a good with a flaw while it is being offered for sale; rather, it is the buyer's responsibility to determine for themselves whether the items are of sufficient quality and appropriateness. The implicit conditions and guarantees are covered under the Caveat Emptor principle. The vendor should not be held liable for any problems in the items because it is not his responsibility to disclose all of them.

When acquiring the things, the buyer should exercise care, keep their eyes alert, and keep their minds engaged. In the absence of any misrepresentation or promise by the vendor, he will be held responsible for the results of his lack of competence and judgement if he makes the wrong decision.

(A) Exceptions to 'caveat emptor's principle'

- i. **In case of concealing the secret defect:** – When the vendor has purposefully disguised a flaw that is not noticeable upon a careful examination of the items.
- ii. **In case of misrepresentation by the seller:** – If the seller made a misleading statement about the products and the buyer relied on him, then the seller is liable for the customer's loss.
- iii. **Merchantable Quality:** It is an implicit requirement that products acquired under the description from a seller who deals in the relevant category of goods be of merchantable quality.
- iv. **Fitness for buyer's purpose:** – The implied condition that the goods are reasonably suitable for the purpose for which they are expected exists when the seller is the manufacturer or dealer of the type of goods sold by him, the buyer has informed him of the purpose for which the goods are required, and the purpose is dependent on the skill and judgement of the seller.

¹¹ CAVEAT EMPTOR, <https://www.toppr.com/guides/business-laws/the-sale-of-goods-act-1930/doctrine-of-caveat-emptor/> LAST VISITED ON 20.04.2023.

- v. **In case of sale by sample:** –When the vendor supplies things that do not match the sample.
- vi. **In case of sale by description:** – Where the goods are sold by description and the goods supplied by the seller do not conform to the description to the buyer of the product.
- vii. **In the case of sale by samples as well as details:** – When products are sold with a sample and a description, but the items supplied do not match the sample and the description provided to the product buyer, this is known as a sale by samples and details.

(B) Case Law of Baldry vs Marshall

In the case of ¹²Baldry v. Marshall, Baldry consulted a car salesman and informed him that he wanted to buy a vehicle for travelling. A Bugati automobile, according to car salesman Mr. Marshall, would be suitable for the task. Baldry purchased the vehicle because he trusted the auto salesman. The vehicle was discovered to be inadequate for touring, nevertheless. The Court determined that the car's fitness for touring was a Condition since Baldry had acquired it for that reason. Baldry would then be able to return the vehicle to the dealer and get his money back.

VII. CONCLUSION

A key factor in the selling of items is the condition and warranties. The parties shall be obligated to comply with the condition and warranty, whether stated or implicit. However, a warranty cannot always be treated as a condition. Sometimes, a condition may be treated as a warranty. The other party to the contract has the right to sue for damages if one of the parties violates any conditions or warranties. As a result, it's critical that both parties adhere to the requirements in order to avoid any issues in the future and to keep the contract from being revoked. Additionally, it is crucial that the person that is not at fault gets compensated for the damage he endured. Regarding the selling contract, both the condition and the warranty are crucial.

¹² BALDRY VS MARSHALL, <https://profalok.blogspot.com/2018/02/sale-of-goods-act-conditions-and.html>
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