

Caveat Emptor Vs Caveat Venditor and Consumer Protection Act

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1. Introduction

Caveat Emptor and Caveat Venditor both concept are having concern to seller and consumer, where both the principles take into consideration at the time to solve the dispute between the buyer and seller. Caveat Emptor is old concept and Caveat Venditor is modern concept using for provide extra protection to consumer in Modern era.

Caveat Emptor a Latin term which means “Let the buyer beware”. Generally principle of Caveat Emptor used to solve the dispute or differences concern to goods, services and property. As per the Caveat Emptor principle the buyer to use his knowledge at the time of purchasing any goods or property. It means seller is not liable for any goods or property which is damaged, defective or does not meet the expectation of the buyer. This principle misused by seller of property or goods and acceptable defense in court. The burden was on the consumer, to carry out due diligence even in matter where information were asymmetry persisted. The consumer must demand bill of purchase, to see illegal fixation of price, to check information and instruction on goods, asking for guarantee/warranty, etc. comparing prices of similar goods or property all above responsibilities were impose by caveat emptor principle on buyer at the time of purchasing goods and services.

Under the principle of caveat emptor, the buyer could not recover damages from the seller for defect on the property that rendered the property unfit for ordinary purposes. The only exception was if the seller actively concealed latent defects or otherwise made material misrepresentations amounting to fraud.ⁱ

The development of this standard to the advanced guideline of Caveat Venditor occurred through legal discussion and with acknowledgement. Caveat Venditor is Latin term which means let the seller beware. The seller who selling goods is accountable for providing information about the goods buyer. It is a counter to caveat emptor and suggests that seller can also be deceived in a market transaction. This principle imposes responsibility on the seller to discourages him to selling products of unreasonable quality. As indicated by this slandered, there is a suggested guarantee existing in every item and the buyer need not perform due perseverance to check the nature of such items. The onus is currently on the seller of goods, property and services to ensure the buyer settles on a sensibly educated decision and to make up for imperfect itemsⁱⁱ

2. Consumer Protection through different laws

Besides the protection granted under Indian constitution, the Indian government has passed a number of statutory regulations to and amended from time to time to put more teeth into the enforcement machinery to ensure better protection of the consumer interests. Various statutes intended to protect the consumer against different form of deceit, injury and exploitation were enacted. Some of these do not mention the consumer interests specifically but do provide consumer protection in some way or the other. Theses statutory regulations cover various aspects of consumer protection. An inductive list of these legislations has been provided as under.

- i. Agriculture Produce (Grading and Marketing) Act, 1937
- ii. Air (Prevention and Control of Pollution) Act, 1981
- iii. Bureau of Indian standard Act, 1986
- iv. Cigarettes (Regulation, Production, Supply and Distribution) Act, 1975
- v. Consumer protection Act, 1986
- vi. Criminal Procedure Code, 1898
- vii. Drug (Control) Act, 1950

- viii. Drug and cosmetic Act, 1940
- ix. Essential Commodities Act, 1955
- x. Essentials Services Maintenance Act 1968
- xi. Food Safety and Standard, Act 2008
- xii. Hire Purchase Act, 1972
- xiii. Indian Contract Act, 1872
- xiv. Standard of Weights and Measures(Enforcement) Act, 1985
- xv. Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- xvi. Prevention of Food Adulteration Act, 1954
- xvii. Sale of Goods Act, 1930

- ii. The right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be to protect the consumer against unfair trade practices
- iii. The right to be assured, wherever possible, access to a variety of goods and services at competitive prices
- iv. The to be heard and to be assured that consumer’s interest will receive due consideration at appropriate forum.
- v. The right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumer
- vi. The right to consumer education

There are number of laws which can be interpreted in favors of consumers in one way or other. The role of these laws to protect the interest of consumers has been for from satisfactoryⁱⁱⁱ

3.Consumer protection through Consumer Protection Act,1986, 2019

The Consumer protection Act, 1986 is milestone in the history of socio-legislation in the country. It is one of the progressive, comprehensive and unique legislation enacted for better protecting the interests of consumers by establishing forums for the settlement of consumer disputes.

This Act is regarded as the ‘Magna Carta’ in field of consumer protection for checking unfair trade practices, defeat in goods and deficiencies in services as far as India is concerned. It has led to the establishment of a widespread network of consumer form and appellate courts all over India. It has significantly impacted how businesses approach consumers and have empowered consumers to a greater extent.^{iv}

Under the Act, three tier quasi-judicial consumer dispute redressal machinery was established at the district, State and National Levels. These agencies are popularly known as consumer forums or consumer courts for simple, speedy and inexpensive redressal of the consumer’s grievances. In terms of the Act, the Central Government first constituted the Central Consumer Protection Council (CCPC) to promote and protect the rights of the consumer and it was reconstituted from time to time. The Objectives of (CCPC) is to promote and to protect the rights of the consumers such as

- i. The right to be protected against the marketing of goods and services which are hazardous to life and property.

The Consumer Protection Act, 1986 enhanced the judgmental power of consumers. By making them understand what is right and wrong and undertake the right decisions when buying any product or services. It curbed the business malpractices generally being done to make profit, without caring whether the well being of consumers and community is being hampered or not. That’s why Right to safety, Right to Information, right to choose, right to redressal, right to heard, etc. become the indispensable part of this Act.

As the technology has taken a storm over e-commerce, Digital branding has taken a new shape. Why not! After all, it has become easier for consumers to order their favorite things from the comfort of their couch. Convenient payment system has also contributed towards an improved shopping experience.^v

The Consumer Protection Act, 2019 came into practice On 30th July 2019, Consumer Protection Bill, 2019 was passed by the Lok Sabha and then on 6th August 2019, Rajya Sabha passed the bill. Finally, on 9th August 2019, The Consumer Protection Act, 2019 (New Act) received the assent of the President of India and was published in the official gazette, amending more than three decade old act. This bill was introduced in the parliament by Mr. Ram Vilas Paswan, the Minister of Consumer Affairs, Food and Public Distribution.^{vi}

According to Consumer protection Act, 2019 Consumer defined as Consumer’ is a person who avails the services and buys any good for self-use. However, a person who buys goods or avail services for resale or commercial purpose will not be

considered as a 'consumer'. The definition is applicable for both types of transactions i.e. online and offline.

Salient features of Consumer Protection Act, 2019^{vii}

- i. All types of e-transaction covered under new Consumer Protection Act, 2019
- ii. Enhancement of Pecuniary Jurisdiction. it mean district forum can entertain disputes where such value upto INR 1 crore and State consumer forum can entertain disputes where such values from INR 1 crore to 10 crore and National consumer now entertain disputes where such values exceeds INR 10 crore
- iii. The New Act has proposed the establishment of a regulatory authority. It is the Central Consumer Protection Authority (CCPA), possessing wide powers of enforcement.
- iv. The act offers six rights to the consumers^{viii}
- v. The Central Consumer Protection Authority (CCPA) will have the power to impose fines on the manufacturers with upto 2 years of imprisonment for publishing misleading or false advertisements.
- vi. This new act has enacted the provision of the establishment of the Consumer Disputes Redressal Commissions (CDRCs) at the National, State and District levels.
- vii. It enables speedier resolution of disputes and reduces pressure on consumer courts that already have numerous cases pending before them.
- viii. The product liability is now extended to sellers and service providers along with manufacturers.
- ix. The Consumer now can file complaints with the nearby jurisdictional consumer forum, be it close to residence or place of work.

4. Conclusion

The present study looks into development in providing more protection to consumer. The principle of Caveat emptor remains back when the Caveat Venditor principle introduced by the Indian legal system through the enactment of Consumer protection Laws in India. Keeping all above in views, consumer Protection Act, 1986 and 2019 was designed encompass all kinds of rights of consumers and protect their interest in getting what he paid for these Acts are most comprehensive gift given by Indian Parliament to citizen of India. Ever since, the redressal agencies come to being large number of consumer were knocking at their doors and getting relief in cases where they would previously have preferred to suffer in silence. Study provided various dimensions about consumer protection laws consumer protection redressal and consumer awareness and practice prevalent in Market.

References

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