DOCTRINE OF CAVEAT EMPTOR

INTRODUCTION

The rule of caveat emptor which means “let the buyer beware” has been overridden by the rule of caveat venditor. Such change was required because of changing conditions of modern trade and commerce. The phrase caveat Emptor is not used by the judges very often nowadays. This doctrine is based on the principle that when a buyer satisfies himself as to the product’s suitability, then he is left with no subsequent right to reject such product. The caveat emptor rule originated many years ago in common law and over the times has undergone major changes. The exceptions of the doctrine started expanding with time as it was being given a concrete shape.

Statement Of Caveat Emptor

The principle of Caveat Emptor is explained in Section 16 of the Sale of Goods Act 1930 which states that there is no implied condition or warranty as to quality or fitness for any particular purpose of goods supplied.”

THE HISTORY OF CAVEAT EMPTOR

In the 19th century, the attitude of common law towards the buyer can be understood by the maxim Caveat Emptor which means let the buyer beware. This maxim explains that a purchaser must carefully examine and judge what is best for him. The purchaser should not take the risk of the condition and quality of the object which he needs to buy, he must protect himself by a warranty. This maxim summarizes the rule that a purchaser must examine and judge what is best for him. The philosophy behind the rule of Caveat Emptor basically was that buyer shall apply his own skill and judgment before buying. It is based on the fundamental principle that when a buyer is satisfied with the suitability of the product for his use, no subsequent right will be left with him to reject the same. When the rule of caveat emptor originated, it was quite rigid and there was no scope for any subsequent change in the rule. In English Sale of Goods Act, 1893, it is highly noticeable and evident that the seller's duties as to requirements of disclosure when a product is sold was minimal. There was no duty upon the seller to provide information and proper examination of the goods by the buyer was considered over and above any other duty. The Concepts which could be used to shift the burden as to quality and fitness on the seller such as 'fitness of goods' and 'merchantability', were not encouraged. Another strong statement which was present in Section 11(1)(c) in the said Act, which mandated that the buyer could not reject the goods on any ground in cases where there was sale of 'specific' goods. Thus, it is highly noticeable that the law was bent towards the seller and in those times, one could not even find a corresponding rule which would put the burden on the seller.

THE FALLACY & THE NEED FOR CHANGE

At the time of its origin the rule of Caveat Emptor prevailed in its absolute form but it was later categorised as detrimental to the development of commerce and trade. Rule of Caveat Emptor in its absolute form was highly detrimental to the buyer because of the absence of the element of reasonable examination. Therefore a buyer would have no recourse against the seller who is aware of the latent defect but did not aware the buyer about the same and the buyer cannot detect that defect (as it can not be detected by reasonable examination).

Another strong reason for the fallacy of the rule of Caveat Emptor, is the need for providing protection to the buyer who purchases the goods in good faith, that is, where the buyer purchases goods from the seller by relying on his skill and judgment. Thus the rule was subsequently diluted so as to give proper recognition to the relationship between the seller and the buyer and in order to give rise to a scenario wherein commercial transactions are encouraged.

HOW IT CHANGED TO CAVEAT VENDITOR

For the aforementioned reasons, the rule of Caveat Emptor for the first time suffered backlash in the case of Priest v. Last, wherein reliance was placed on the buyer relying on seller's skill and judgment and the buyer was allowed to reject the goods for the first time. In this case the buyer purchased a hot water bottle relying on the seller's skill and judgment. It was observed that if a buyer purchases an object relying on the seller's skill and judgment then the buyer will be allowed to reject the same on the occurrence of any defect. This was the first ever decision in common law in which importance was given to the buyer's reliance on the seller's judgment and skill.

Gradually this rule gained prominence and the seller's obligations have been given a proper shape along various case laws and statutes limiting the rule of Caveat Emptor to 'reasonable examination'. In cases like milk containing typhoid germs, contaminated beer, the Courts have been generous enough to establish that the defects would not have been traced by reasonable examination in ordinary circumstances, the buyer will be exempted from this duty.

Further, in Harlingdon & Leinster Enterprises Ltd v. Christopher Hull Fine Art Ltd, the buyer claimed that he had the right to reject the painting as it was not of the original painter. So, it was observed that where the buyer has more expertise in a given field and is more reasonable than the seller then it would be completely wrong to suggest that the buyer would have the right to reject the purchased object. Therefore the seller is bound by the duty to make known to the buyer all the defects in the goods and the information relating to the usage of goods. This obligation of the seller is irrespective of his own judgment and skill because what matters is what he is expected to have and not what he has.

JUDICIAL TRENDS

In Ward v. Hobbes (1878) 4 AC 13, the House of Lords held that if a seller uses artifice or disguise to conceal the defects in the product which is to be sold it would amount to fraud on the buyer; still no duty to disclose the defects in the product is imposed on the seller by the doctrine of caveat emptor. An obligation to use care and skill while purchasing goods is imposed on the buyer by the doctrine of Caveat Emptor.

The Court of Appeal Wallis v. Russel (1902) 2 IR 585, explained the scope of caveat emptor and laid down that the rule of Caveat Emptor implies that "the buyer must take care". It applies to the purchase of those things upon which buyer can exercise his own skill and judgment, e.g. a picture, book, etc (also known as specific goods); it also applies in the cases where by usage or by a term of contract it is implied that the buyer shall not rely on the skill and judgment of the seller.

Exceptions To The Rule Of Caveat Emptor

Fitness for buyers purpose [Section 16(1)]

Section 16(1) of the said Act provides that in situations where the seller is aware either expressly or by necessary implication of the purpose for which a buyer needs to purchase a specific product, further, the goods are of such description which the seller supply in his ordinary course of business and by relying upon the judgment and skill of the seller, the buyer purchases that product, then the goods should be in accordance with the purpose. In other words, this section explains the circumstances where the seller has an obligation to to supply the goods to the buyer as per the purpose for which he intends to buy the goods.

Sale under Trade Name [Proviso to S. 16 (1)]

In some cases, a buyer purchases goods not by relying on the skill and judgment of the seller but by relying on the product's trade name. In such cases, it would be unfair that the seller be burdened with the responsibility of quality. The proviso to Section 16 deals with such cases. It provides that:

“Provided that, there is no implied condition as to fitness for any particular purpose in the case of a contract for the sale of a specified product under its patent or other trade name.

Merchantable quality [Section 16(2)]

The second most important exception to the rule of Caveat Emptor is incorporated by Section 16(2) of the Act. The Section imposes a duty upon the dealer to deliver the goods of merchantable quality. Section 16(2) states that there is an implied condition that when goods are purchased by description from a seller who deals in the goods of that description, the goods shall be of merchantable quality.

Meaning of Merchantable Quality: It implies that when the goods are purchased for resale, the goods must be capable enough of passing in the market under the name by which they are sold.

Examination by buyer [Proviso to S.16(2)]

The proviso to S. 16(2) provides that “if upon examination of the goods to be purchased, the defects ought to have been revealed then no implied condition as regards to the defect will exist." The requirement provided in the proviso would be considered as satisfied fully when the buyer was given full opportunity to examine the goods and the argument that the buyer did not use that opportunity will not make any difference, an existence of opportunity is sufficient in such cases.

Conditions implied by trade usage [Sec. 16(3)]

Section 16(3) gives statutory force to the conditions implied by the usage of a particular trade. It states that “An implied condition or warranty as to the quality or fitness for any particular purpose may be annexed by the usage of trade.”

In the case of Peter Darlington Partners Ltd v Gosho Co Ltd, a contract for the sale of canary seeds was subjected to custom of trade and held that if there exist any impurities in the seeds the buyer will get a rebate on the price but he would not reject the goods. However, a custom which is unreasonable will not affect the parties’ contract.

CONCLUSION

Thus, it can be concluded from the aforementioned analysis that the rule of Caveat Emptor is being taken over by the rule of Caveat venditor and is dying a slow death. The change is taking place in order to create a more consumer oriented market wherein transactions of commercial nature will be encouraged. Such change will help to create a more consumer friendly market and an appropriate balance can be maintained between the rights and obligations of the buyer and the seller. But it should be noted that if this approach is taken too far, it might end up in becoming extremely pro buyer and then some people might end up misusing the protection under law.