
CAVEAT EMPTOR TO CAVEAT VENDITOR: THE CASE FOR A NECESSARY TRANSITION IN INDIAN JURISPRUDENCE

Dil Prithviraj Sen, Jindal Global Law School

ABSTRACT

This paper argues that the transition from caveat emptor ("buyer beware") to caveat venditor ("seller beware") in Indian consumer law is long overdue. Caveat emptor, inherited from British colonial rule and codified in the Sale of Goods Act, 1930, has placed an unrealistic burden on buyers, allowing sellers to evade accountability. Despite safeguards under Section 16 of the Act, judicial interpretations have consistently disadvantaged consumers. Landmark judgments such as *Commissioner of Customs v. Aafloat Textiles* (2009) and *United Bank of India v. Official Liquidators* illustrate how buyers have been left without recourse under this outdated doctrine.

Recognizing this exploitation, India has progressively moved toward caveat venditor, culminating in the Consumer Protection Act, 2019. This legislation strengthens consumer rights, mandates full disclosure by sellers, and holds manufacturers and e-commerce platforms accountable. By doing so, India aligns with global consumer protection standards, such as the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the U.S. Truth in Lending Act (TILA). However, challenges remain in enforcement, particularly for rural consumers who lack awareness of their rights. For caveat venditor to take full effect, India must enhance consumer education, streamline dispute resolution, and impose stricter penalties on deceptive sellers. Strengthening these protections is essential for ensuring fair and equitable transactions in India's evolving marketplace.

INTRODUCTION: A BRIEF GIST AND ROADMAP OF THE PAPERS ARGUMENT

Anybody employed in a consumer facing business or distantly associated with the field of sales, or perhaps even most residents in commercialized and modern societies, have likely come across phrases akin to the following:

“The consumer is king!”

“The customer is always right!”

While on the surface these “business mantras”¹ appear to be just that- sales tactics or guidelines for attracting and keeping clientele- the growing prevalence of such sentiments reaffirm the fact that we live in a consumerist world. Since the dawn of the industrial revolution, and the subsequent consumerist shift across global hegemonies and eventually the developing world, the consumer has indeed, in a sense, become king. The markets, the economy and therefore the fate of the state to some extent, depend on customers continually buying goods and services.

Given this consumerist shift, and the key role consumers play in upholding our market economy, it is detrimental to place an obligation upon such buyers, forcing them to take extreme and unreasonable precautions just to minimize their chances of almost being defrauded by sellers. The doctrine of “caveat emptor”, which is Latin for “buyer beware”², asks just that of consumers. Inherited from British colonial rule and common law, this principle greatly alleviates the liability placed on vendors for selling subpar goods or engaging in unfair business practices, placing the full onus of due diligence on customers. Nonetheless, in post-independence India, given the emergence of and growing dependence on mass-produced commodities, monopolistic behaviors of conglomerates, and deeply complex markets, this framework is unworkable and has undoubtedly left customers open to abuse. The doctrine of caveat emptor was first implicitly codified in the Indian Contract act of 1872, and reemphasized with further clarity in the Sale of goods act 1930³.

¹ Zunjarrao P, “‘Customer Is King’: What It Means in Today’s Market’ (Business Wise, 12 December 2020) <<https://businesswise.in/roundup/details/487/Customer-is-King-What-it-means-in-Todays-Market>> accessed 3 March 2025

² Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 International Journal for Legal Research and Analysis

³ Das S, ‘Doctrine of Caveat Emptor and Implied Contract’ (The Lex Times, 2024)

India, much like other leading global economies such as but not limited to the US and several nations in the EU, has been slowly transitioning to a system which advocates for and enshrines a more consumer-friendly iteration of the aforementioned doctrine. The principle of Caveat Venditor – Latin for “seller beware”⁴ – was first marginally introduced to Indian Jurisprudence through the then watershed legislation titled The Consumer Protection Act of 1986⁵. The act, though not explicitly demanding the judicial system to shift the onus of exhaustive and unrealistic due diligence away from the buyer, created a three-tier redressal system for consumers, recognized consumer rights such as full disclosure of information prior to purchase, and held producers and sellers liable for defective products, deficient services, and unfair trade practices. This consumer-centric shift was eventually explicitly codified in the Consumer Protection Act 2019. The act not only reemphasized the shift to a “seller beware” system, it also updated the penalties for sellers misleading buyers, imposing fines of up to 10 lakhs and adding procedure to hold e-commerce platforms liable for the same⁶.

This paper will argue that this progression from the doctrines of emptor to venditor in India was essential not just to address the intrinsic power imbalances created by placing the onus of due diligence entirely on the buyer, but also to align the nation with similarly evolving global standards. Moreover, this necessary change works towards empowering Indian citizens in an era of asymmetrical information. To substantiate the foregoing argument, the paper will first establish the need for the shift by exploring the historical exploitation of Indian consumers stemming from the judicial reliance on the doctrine of caveat emptor through case studies of landmark judgements relying on the emptor maxim. Next, after establishing the need for the shift, the paper will examine how the maxim of caveat emptor has faded in Indian Jurisprudence, marking the explicit and needed shift towards caveat venditor. Finally, the paper will address future challenges regarding the implementation of venditor, making recommendations to facilitate the intended benefits of this landmark shift in national consumer protection and contract laws.

<<https://www.thelextimes.com/doctrine-of-caveat-emptor-and-implied-contract/>> accessed 3 March 2025

⁴ Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 *International Journal for Legal Research and Analysis*

⁵ Aryan J, ‘The Realm of Caveat Emptor: Unveiling Its Significance in Consumer Transactions’ (Legal Service India, 2023)

⁶ Aryan J, ‘The Realm of Caveat Emptor: Unveiling Its Significance in Consumer Transactions’ (Legal Service India, 2023)

History of Caveat Emptor in Indian Law

The doctrine of caveat emptor was introduced to Indian Jurisprudence through colonial imposition, largely due to its prevalence in English Common Law. According to the English Legal History department at Columbia University, the first traceable application of caveat emptor occurred in Medieval England in a case titled *Chandelor v. Lopus* in 1603⁷. In the case, a buyer was taken aback by a flashy stone in the inventory of the town goldsmith. The buyer, under the impression that the stone possessed healing powers, asked said goldsmith if it was a “bezar-stone”. For the sole purpose of making the sale, the goldsmith affirmed to the buyer that it was, though he knew it wasn’t. Upon finding this out, the buyer took the goldsmith to court in the Exchequer Chamber but the case was dismissed as the seller “had not expressly warranted” that the rock was indeed a “bezar-stone”⁸. The court even went as far as clarifying that, “if there is no warranty... an action on the case does not lie, even though [the buyer] is deceived.”⁹.

Though this may seem like clear fraud in the eyes of a modern consumer, the court's rationale was also based on the market place circumstances of the times. In medieval England, vendors would travel the countryside stopping at different towns and bazaars, making it incredibly difficult to find them, let alone hold them accountable, in cases where the seller was unsatisfied with their purchase¹⁰. This seemingly innocuous dispute has since greatly impacted and molded the contract law in the UK, and subsequently across the vast majority of commonwealth nations.

In India, as previously touched on, the doctrine of caveat emptor was officially incorporated under the Sale of Goods Act, 1930. Section 16 of the act stipulates that when a market transaction occurs under a contract of sale, it is not automatically implied that the seller sold it with warranty of fitness or quality. In other words, the onus of due diligence and thorough inspection pre-purchase is entirely on the shoulders of the consumer¹¹. At this point,

⁷ Columbia University, “*Lopus Chandler*”

<<https://moglen.law.columbia.edu/twiki/bin/view/EngLegalHist/LopusChandler>> accessed 4 March

⁸ Columbia University, “*Lopus Chandler*”

<<https://moglen.law.columbia.edu/twiki/bin/view/EngLegalHist/LopusChandler>> accessed 4 March

⁹ Columbia University, “*Lopus Chandler*”

<<https://moglen.law.columbia.edu/twiki/bin/view/EngLegalHist/LopusChandler>> accessed 4 March 2025

¹⁰ Columbia University, “*Lopus Chandler*”

<<https://moglen.law.columbia.edu/twiki/bin/view/EngLegalHist/LopusChandler>> accessed 4 March

¹¹ Javed U, ‘A Shift From Caveat Emptor To Caveat Venditor By’ (2024) 2 *International Journal for Legal Research and Analysis*

its is quite valid for one to question why a seemingly asymmetrically beneficial legal doctrine (which essentially leaves a buyer open to being defrauded) was reinforced and codified nearly 350 years after its unpopular inception. Thankfully, the Sale of Goods Act 1930 (SoGA) did build out some safeguards within the section to protect buyers in certain scenarios.

Section 16(1) lists a set of requirements which, when satisfied, create an implied condition on the part of the seller guaranteeing that the goods they have provided are relatively fit for the distinct purpose for which the buyer has purchased them. To create this implied condition, the “buyer must expressly or impliedly makes known to the seller the purpose” of his or her purchase. Moreover, 16(1) insists that a “Buyer shall be dependent on the seller’s skill or judgement”. This vague concept is illuminated further in the Landmark Judgement *Raghava Menon v. Kuttapan Nair*¹² where a watch seller was forced to replace or refund a wristwatch that failed to provide satisfactory service after a number of attempts to fix it. The Court clarified that “the plaintiff is a layman, and he approaches a fairly reputed firm like the defendant dealing in watches and purchases a watch from them, not for any special purpose, but for the common purpose of knowing the correct time. In such a case, section 16(1) of the Sales of Goods Act may apply, because the buyer makes known to the seller, by implication, the purpose for which he purchases the watch and also relies on the seller's skill or judgment”¹³.

Section 16(2) of the act adds the implied condition of “Merchantable Quality”, essentially meaning that the goods are bought based on a “description...from a seller who deals in the goods of that description” meaning that the seller thus has a responsibility to market goods of a “merchantable quality”¹⁴. For instance, in the case of *Grants v Australian Knitting Mills*, the underwear being marketed by the sellers were deemed dangerous to human skin due to the chemicals used in their manufacturing and hence they were seen to have failed the “merchantable quality test”.

Section 16(3) expands on the safeguard provided in 16(1) by clarifying that sellers, when aware of the purpose for which the purchased goods will be used, are under an implied condition to warrant the quality or fitness of said goods. Section 16(4) adds the stipulation that

¹² Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 International Journal for Legal Research and Analysis

¹³ Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 International Journal for Legal Research and Analysis

¹⁴ Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 International Journal for Legal Research and Analysis

should the seller obtain “the consent of a buyer by fraud or misrepresentation”, they will be held liable, and the doctrine of caveat emptor will be exempt¹⁵.

Establishing the Need for Change: Indian Injustice?

Despite the existence of these safeguards, there are several judgements in recent Indian History that reemphasize the need for an explicit shift away from the principle of caveat emptor for the sake of consumer protection. One of the most notable examples of this doctrine's existence harming well-intentioned and unsuspecting Indian citizens -and bordering on condoning fraud- is the case of Commissioner of Customs v. Aafloot Textiles (2009). In this case, a buyer purchased gold under their newly acquired Special Import License (SIL). However, the SIL was found to be forged. Though the buyer had no knowledge of this fraudulence, the Supreme Court held that the seller is under zero obligation to inform consumers of any defects in the product. Rather, this obligation of truthful disclosure only arises if the buyer makes an inquiry about potential defects of the product, at which point the vendor cannot misrepresent the facts regarding any existing defects¹⁶. In layman's terms, under the principle of caveat emptor, should the buyer fail to explicitly ask if he is being defrauded during his due diligence, it is perfectly acceptable for a vendor to conceal the truth about any defects so long as he isn't directly asked about them. The implications of this judgement are extremely far reaching and dangerous as they stress that, despite the safeguards and exceptions to caveat emptor laid out in the SoGA 1930, consumers can still face the entire brunt of a seller's misrepresentation in the 21st century. In this case, the buyer faced criminal charges and fines beyond their means for the sole reason that they trusted an accredited authority to sell them a valid license¹⁷.

In United Bank of India v. Official Liquidators and Others, the debts and encumbrances on the property were unknown to the buyer¹⁸. However, the buyer's claim for damages, price, or compensation was denied by the Supreme Court who contended that the buyer was

¹⁵ Javed U, 'A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY' (2024) 2 International Journal for Legal Research and Analysis

¹⁶ Garg R, 'Doctrine of Caveat Emptor' <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

¹⁷ Garg R, 'Doctrine of Caveat Emptor' <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

¹⁸ Bharucha SP (United Bank of India vs official liquidator , 6 October 1993) <<https://indiankanoon.org/doc/135119>> accessed 3 March 2025 ¹⁹ Paul S, 'Analysing the Legitimacy of Auctioning of Secured Assets in an "as Is, Where Is, Whatever Is" Manner: A Call for Adopting the Doctrine of Caveat Venditor – Part II' (NLIU Bhopal, 10 June 2022)

responsible for conducting due diligence and that the official liquidator had not given any assurance or warranty that the property had a marketable title¹⁹. Again, a buyer with honest intentions was left without relief or remedy of any sort due to the disproportionate onus placed on buyers under the maxim of caveat emptor.

Another notable case that deals with a rather common predicament in the Indian real estate market is *Pawittar Singh Walia v. Union Territory* (2012). In the case, the respondent was the original allottee in a contract to purchase a plot in a new development. Upon failing to pay the agreed upon installments on time and subsequently losing his title of the plot, the respondent decided to fraudulently sell the plot despite having no right to²⁰. The petitioner, upon viewing the initial contract which gave the respondent full rights to the plot, paid consideration to the respondent for the plot believing it to be an honest deal. Naturally, the petitioner was later denied access to and possession of the plot by the building authorities who had already reclaimed the rights to the plot. The Court applied the doctrine of caveat emptor and claimed that the petitioner should have been a more vigilant buyer²¹. They further held that, despite the sellers clear fraudulent intentions, the petitioner made no further efforts to check if the property was free from all encumbrances and was thus entirely “responsible for his own loss”²². It seems intuitively unjust, and morally questionable, that intentional fraud was not punished in this case. Rather, the seller who had misrepresented the facts for profit out of clear mal intent was protected by technicalities while the unsuspecting buyer faced the financial loss.

Judgements like these emphasize to the Indian consumer that despite years of hard work and sacrifice culminating in a well-intentioned and honest purchase, one can end up being virtually defrauded with no recourse or even face jail time²³. The sheer level of due diligence on the part of the consumer this doctrine mandates, is both unreasonable and unrealistic.

¹⁹ Paul S, ‘Analysing the Legitimacy of Auctioning of Secured Assets in an “as Is, Where Is, Whatever Is” Manner: A Call for Adopting the Doctrine of Caveat Venditor – Part II’ (NLIU Bhopal, 10 June 2022) <<https://cbcl.nliu.ac.in/uncategorized/analysing-the-legitimacy-of-auctioning-of-secured-assets-in-an-as-is-where-is-whatever-is-manner-a-call-for-adopting-the-doctrine-of-caveat-venditor-part-ii/>> accessed 3 March 2025

²⁰ Garg R, ‘Doctrine of Caveat Emptor’ <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

²¹ Garg R, ‘Doctrine of Caveat Emptor’ <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

²² Garg R, ‘Doctrine of Caveat Emptor’ <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

²³ Javed U, ‘A SHIFT FROM CAVEAT EMPTOR TO CAVEAT VENDITOR BY’ (2024) 2 *International Journal for Legal Research and Analysis*

Furthermore, it is apparent that the safeguards, though applicable in certain cases, fail to protect consumers in a plethora of real world scenarios.

These cases underscore the urgent need for a definitive shift away from *caveat emptor* in Indian consumer law. When buyers who act in good faith can be left financially devastated—or even criminalized—due to a seller’s misrepresentation, the doctrine ceases to serve any equitable function in modern commerce. The judicial insistence on placing an overwhelming burden of due diligence on consumers not only disregards the inherent power asymmetry between buyers and sellers but also enables fraudulent practices to persist under the guise of legal technicalities. These rulings illustrate that the existing safeguards under the Sale of Goods Act, 1930, are insufficient to protect consumers in real-world scenarios, where deceit is often sophisticated, and buyers lack access to all material information before making a purchase. The expectation that an average consumer should anticipate and guard against every conceivable form of seller misconduct is both unrealistic and unjust. Thus, the doctrine of *caveat venditor* must be strengthened and universally applied, shifting the responsibility to sellers to ensure transparency and fair dealing. Only through such a transformation can Indian consumer law truly align with ethical commerce, international standards, and the fundamental principle of protecting honest buyers from exploitation

Establishing the Need for Change: Intrinsic Power Imbalances and a Changing World

The aforementioned cases, while emphasizing the need for a shift away from *caveat emptor*, involve relatively wealthy individuals making high profile purchases such as gold import licenses and plots of land. Further issues arise with respect to this doctrine when considering the implications it can have on most Indian citizens who earn small amounts and spend a considerable chunk of earning on purchases that fuel sustenance. The concept of *caveat emptor* drew major international criticism towards the end of the 20th century due to the frequency with which buyers were disadvantaged by inequitable outcomes. One such case, which drew unparalleled critique, was a common law judgement titled *Ward v Hobbs*²⁴ wherein the petitioner was not given a remedy despite being sold pigs that were infected with typhoid. The seller, despite intentionally selling infected livestock, was exonerated completely by the

²⁴ Das S, ‘Doctrine of Caveat Emptor and Implied Contract’ (*The Lex Times*, 2024)
<<https://www.thelextimes.com/doctrine-of-caveat-emptor-and-implied-contract/>> accessed 3 March 2025

court as “mere silence doesn’t amount to misrepresentation”²⁵. The implications of such judgements are detrimental not only to the British populus, but the principle they underline has arguably more damaging consequences in India. According to a UK Government study, the median total household income among all farm households in the UK in 2023 was roughly £22,112²⁶, whereas in India that figure is approximately £1,341 (Rs. 150,000)²⁷. Even considering the differences in development, cost of living, infrastructure, and average income between the two economies, the average consumers potentially disadvantaged by caveat emptor in India are clearly more financially vulnerable and thus detrimentally impacted relative to buyers in more developed nations with similar legal frameworks.

In its full form, the maxim of caveat emptor is derived from the Latin phrase, “caveat emptor, quia ignorare non debuit quod jus alienum emit”. The phrase translates to “Let a purchaser beware, for he ought not to be ignorant of the nature of the property which he is buying from another party”²⁸, and is the basis for much of the statutory law explored thus far which places the onus of due diligence on the buyer²⁹. In cases such as *Ward v Hobbs*, where even thorough inspection doesn't yield potentially damning information that does not meet the eye, the buyer is left wronged and financially impaired with no recourse while there isn't even a mechanism to impose some sort of liability or responsibility on the seller³⁰. This becomes more of an issue as commodities being sold are no longer largely homogenous in nature across vendors, nor are they moving in relatively low volume in physical marketplaces. Thus the ability to inspect an item before purchase also becomes difficult, if not impossible, with the emergence of e-commerce and the growing popularity of online shopping. In the modern world,

²⁵ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

²⁶ ‘Farm Business Income by Type of Farm in England 2023/24’ (GOV.UK, 2025) <<https://www.gov.uk/government/statistics/farm-business-income/farm-business-income-by-type-of-farm-in-england-202324>> accessed 3 March

²⁷ Mukul S, ‘Farming Yields Rs 4,500 a Month, Less than What You’d Splurge on a Dinner Date’ (*India Today*, 17 December 2024) <<https://www.indiatoday.in/india/story/india-farmer-rich-poor-income-monthly-yearly-from-farming-profitable-disparity-nabard-study-2647144-2>>

²⁸ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

²⁹ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

³⁰ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

where even the transfer of money is facilitated through the internet, “caveat emptor would fail to protect buyers from the deceptive practices adopted by sellers, and in order to safeguard buyer rights, caveat venditor comes to play.”³¹.

Given the urgent need to change the status quo of caveat emptor in order to address the power imbalance between buyers and sellers, and the changing landscape of the marketplace at the hands of technology, a shift in Indian law was clearly necessary and inevitable.

Caveat Emptor to Caveat Venditor: Factors Contributing to the Shift in India

As previously mentioned, the Consumer Protection Act of 1986 took several positive steps away from the concept of caveat emptor and indicated the beginning of a legislative shift towards caveat venditor. However, apart from creating mechanisms for redressals and defining consumers, goods, and acceptable practices (unlike the SoGA), the act was quite limited in explicit shifts benefitting the consumer. In the 105th report of the Law Commission of India, the panel made the case for a shift to the newfound concept of Caveat Venditor³². In keeping with this recommendation, the commission determined that buyers should have all the information about the goods they are purchasing relative to any risks that may arise subsequently. Buyers are to be made aware of any and all defects in the goods they are purchasing, while the onus of full disclosure was recommended to be placed on the seller³³. The report also, using this line of reasoning, established how to determine “merchantable quality” as previously discussed in reference to section 16 of the SoGA³⁴. The Raghavan Committee report of 2000, served as the precursor to the proverbial nail in the coffin for the preference of caveat emptor in India as it famously proclaimed, “it is no longer the era of caveat emptor”³⁵. Beyond domestic legislature and legal developments, international norms such as

³¹ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

³² Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

³³ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

³⁴ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

³⁵ Tulsyan A, ‘RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT’ (2022) 2 *National Journal for Legal Research and Innovative Ideas*

those established in the United Nations Convention on Contracts for the International Sale of Goods (CISG) are often adopted by many nations to meet international standards and upscale their jurisprudence. Article 35 of the CISG underlines the importance of full disclosure pre-sale on the part of sellers, going as far as stating that the onus of exercising caution lies with the seller rather than the buyer³⁶. Since the 2008 financial crisis, the US –a country India’s jurisprudence has borrowed from greatly over the last 3 decades- has also seen a significant shift from emptor to venditor, culminating in stricter adherence to statutes such as the “Truth in Lending Act (TILA)” which mandates the disclosure of all terms, costs, and possible issues by financial service providers prior to sale³⁷.

Therefore an amalgamation of local sentiments and legislative recommendations, coupled with changes in International standards in contract law, have served as catalysts for change, ushering in the explicit shift from caveat emptor to venditor in India; as evidenced in the eventual codification of The Consumer Protection Act of 2019 (CPA). Section 84 of the CPA places the liability of any defect in manufactured goods directly on the manufacturer and seller. Though this may seem like a bare minimum, its previous absence in Indian jurisdiction and the subsequent watershed-like moment upon its enactment speaks volumes about how disadvantaged consumers were in modern India prior to the act. Moreover, the act has taken steps to regulate e-commerce and advertising, setting up a central regulatory body to address consumer concerns.³⁸ Furthermore, section 86 of the CPA holds sellers accountable for defective products over which they have substantial control in packaging, testing, labeling of selling. Moreover, if a seller modifies the product in any way and the alterations are subsequently responsible for causing the buyer harm, they are again held responsible under the law³⁹.

This shift is widely recognized by the judicial branch of the Indian government in both general acknowledgement and practice. A District Commission in Cuttack, while “Referring to

³⁶ Aryan J, ‘The Realm of Caveat Emptor: Unveiling Its Significance in Consumer Transactions’ (Legal Service India, 2023) <<https://legalserviceindia.com/legal/article-15111-the-realm-of-caveat-emptor-unveiling-its-significance-in-consumer-transactions.html>> accessed 3 March 2025

³⁷ ‘Truth in Lending’ (Office of the Comptroller Currency, 6 April 2019) <<https://www.occ.treas.gov/topics/consumers-and-communities/consumer-protection/truth-in-lending/index-truth-in-lending.html#:~:text=The%20Truth%20in%20Lending%20Act,for%20certain%20types%20of%20loans>> accessed 3 March 2025

³⁸ Kinhal D and Ranjan A, ‘Enforcing Caveat Venditor’ (Vidhi Centre for Legal Policy, 3 November 2020) <<https://vidhilegalpolicy.in/research/enforcing-caveat-venditor/>> accessed 3 March 2025

³⁹ Garg R, ‘Doctrine of Caveat Emptor’ <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

the argument of Vishal Mega Mart that it should be the buyer who needs to be aware (Caveat emptor)[...] noted that the Consumer Protection Act, 2019, renders the doctrine of ‘Caveat Emptor’ obsolete⁴⁰. This change in approach, and the efficacy of the CPA 2019, is also evident through the National Consumer Disputes Redressal Commissions compensation directive issued against Johnson & Johnson Ltd and DePuy Orthopaedics Inc, ordering both organizations to pay a minimum of 35 lakhs to buyers incurring health implications due to the purchase of faulty hip implants⁴¹.

This shift is even more noticeable when recent judgements are contrasted against the judgements discussed in the “establishing the need for change” section, which disadvantaged well-intentioned, honest, buyers who were misled by sellers protected under the doctrine of caveat emptor. For instance, in direct contrast to the judgments of *United Bank of India v. Official Liquidators and Others* and *Pawittar Singh Walia v. Union Territory*, the *Smt. Rekha Sahu vs UCO Bank* Judgement of 2013 disregarded the defense of caveat emptor in relation to sellers misrepresenting property prior to purchase. Much like the previously discussed cases of *United Bank of India v. Official Liquidators and Others*, the property had encumbrances that were unknown to the buyer at the time of purchase; however, unlike the prior case, the Allahabad High Court emphasized the shift of doctrine from emptor to venditor and held the auctioneers liable for all misrepresentation, forcing them to pay off encumbrances and hand over the property⁴². Furthermore, in relation to the sale of assets, the Andhra Pradesh High Court opined that the buyer beware “basis has lost its significance in the current commercial milieu, and the principle of caveat venditor is more on the rise as compared to the outdated principle of caveat emptor.”⁴³.

⁴⁰ Singh S, ‘Cuttack District Commission Holds Vishal Mega Mart Liable of Selling Expired Products, Orders to Compensate Buyer, Pay Rs. 5 Lakhs to State Welfare Fund’ (Live Law, 23 December 2023) <<https://www.livelaw.in/consumer-cases/cuttack-district-commission-holds-vishal-mega-mart-liable-of-selling-expired-products-orders-to-compensate-buyer-pay-rs-5-lakhs-to-state-welfare-fund-245232>> accessed 2 March 2025

⁴¹ Samervel R, ‘Women Awarded Rs 35 Lakhs Each over Defective Hip Implants by Johnson & Johnson: Mumbai News - Times of India’ (The Times of India, 22 September 2024) <<https://timesofindia.indiatimes.com/city/mumbai/women-awarded-rs-35-lakhs-each-over-defective-hip-implants-by-johnson-johnson/articleshow/w/113558295.cms>> accessed 4 March 2025

⁴² Garg R, ‘Doctrine of Caveat Emptor’ <https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments>

⁴³ Paul S, ‘Analysing the Legitimacy of Auctioning of Secured Assets in an “as Is, Where Is, Whatever Is” Manner: A Call for Adopting the Doctrine of Caveat Venditor – Part II’ (NLIU Bhopal, 10 June 2022) <<https://cbcl.nliu.ac.in/uncategorized/analysing-the-legitimacy-of-auctioning-of-secured-assets-in-an-as-is-where-is-whatever-is-manner-a-call-for-adopting-the-doctrine-of-caveat-venditor-part-ii/>> accessed 3 March 2025

Further Challenges

Despite the aforementioned judicial recognition of the shift to caveat emptor, and the creation of Consumer Dispute Redressal Commissions under the CPA 1986 and 2019, in practice, aside from some of the landmark concessions and judgements addressed above, the ground realities are yet to catch up with the new maxim.

A study conducted by the Vidhi Center for Legal Policy found that over 60% of consumers, largely concentrated in rural areas, are unaware of the changes in their favor established by the CPA. As discussed in the need for change section, these are the consumers most disproportionately impacted by the asymmetrical benefits given to the seller in market relationships under caveat emptor. Many Indian citizens in rural areas aren't even aware of where to look for product disclosure on packaging, let alone file redressal complaints through the valid authorities⁴⁴. Thus a future challenge of immense note is consumer education. Passing the act and evolving the jurisprudence inside the courtroom is merely the creation of a framework; to encourage regular use of said framework, considerable funding needs to be poured into consumer education targeted specifically at rural outskirts of major centers of commerce. Moreover, online shopping platforms and e-commerce websites must include mandatory notices of consumer rights, and the given company's commitment to adherence to the CPA 2019 in order for consumers to be able to shop carefully, fully aware of their rights and the risks at hand when purchasing items via the internet. Moreover, the Vidhi report found that even in cases where the process of redressal has been initiated, the efficacy is beyond questionable. According to the report, "The Consumer Commissions were established with an aim to offer an accessible and cost-effective forum where consumers can appear in person and resolve their disputes. However, in the Consumer Commissions located in Bengaluru, only 7.2 per cent of disputes filed between 2013 and 2017 were represented by party in-person. The dependence on advocates intensifies in the Karnataka State Commission when compared to the District Commissions. The involvement of lawyers in the process increases the cost of the dispute resolution and creates barriers for consumers to approach the Consumer Commission."⁴⁵ Thus challenges persist in regard to implementation of consumer redressal. Given the barrier of having to appear in court and hire adequate legal counsel, the process

⁴⁴ Kinhal D and Ranjan A, 'Enforcing Caveat Venditor' (Vidhi Centre for Legal Policy, 3 November 2020) <<https://vidhilegalpolicy.in/research/enforcing-caveat-venditor/>> accessed 3 March 2025

⁴⁵ Kinhal D and Ranjan A, 'Enforcing Caveat Venditor' (Vidhi Centre for Legal Policy, 3 November 2020) <<https://vidhilegalpolicy.in/research/enforcing-caveat-venditor/>> accessed 3 March 2025

alienates several working individuals with a lack of time (for court appearances) and expendable income/resources.

Conclusion

The doctrine of *caveat emptor* has long been an inequitable and outdated legal principle, originally developed in medieval marketplaces where direct inspection of goods was possible and later entrenched in Indian law through British colonial rule. However, its continued application in modern commerce has disproportionately burdened consumers, allowing sellers to evade accountability through legal technicalities. As demonstrated by landmark judgments such as *Commissioner of Customs v. Aafloot Textiles* (2009) and *United Bank of India v. Official Liquidators*, the doctrine has facilitated consumer exploitation, often leaving honest buyers without recourse. With the rise of mass production, monopolistic corporations, and digital transactions, expecting buyers to bear the full weight of due diligence is no longer tenable.

Recognizing these realities, India has progressively transitioned toward *caveat venditor*, a shift that was first implicitly introduced in the Consumer Protection Act, 1986, and later codified in the Consumer Protection Act, 2019. This transformation aligns India with evolving global consumer protection standards, ensuring that sellers—not buyers—bear responsibility for product quality and fair dealing. However, for *caveat venditor* to be fully realized, significant challenges remain. Consumer awareness, particularly in rural areas, must be improved, and redressal mechanisms must become more accessible and efficient. Without addressing these gaps, legal reforms risk remaining theoretical rather than transformative. Strengthening enforcement, enhancing consumer education, and ensuring judicial consistency will be crucial in solidifying *caveat venditor* as the dominant legal doctrine, ultimately fostering a fairer and more accountable marketplace.

Bibliography

1. Aryan J, 'The Realm of Caveat Emptor: Unveiling Its Significance in Consumer Transactions' (Legal Service India, 2023) <https://legalserviceindia.com/legal/article-15111-the-realm-of-caveat-emptor-unveiling-its-significance-in-consumer-transactions.html> accessed 3 March 2025
2. Bharucha SP (United Bank of India vs official liquidator, 6 October 1993) <https://indiankanoon.org/doc/135119> accessed 3 March 2025
3. Columbia University, 'Lopus Chandler' <https://moglen.law.columbia.edu/twiki/bin/view/EngLegalHist/LopusChandler> accessed 4 March 2025
4. Das S, 'Doctrine of Caveat Emptor and Implied Contract' (The Lex Times, 2024) <https://www.thelextimes.com/doctrine-of-caveat-emptor-and-implied-contract/> accessed 3 March 2025
5. 'Farm Business Income by Type of Farm in England 2023/24' (GOV.UK, 2025) <https://www.gov.uk/government/statistics/farm-business-income/farm-business-income-by-type-of-farm-in-england-202324> accessed 3 March 2025
6. Garg R, 'Doctrine of Caveat Emptor' https://blog.ipleaders.in/doctrine-of-caveat-emptor/#Indian_judgments
7. Javed U, 'A SHIFT FROM CAVEAT EMTOR TO CAVEAT VENDITOR BY' (2024) 2 International Journal for Legal Research and Analysis
8. Kinhal D and Ranjan A, 'Enforcing Caveat Venditor' (Vidhi Centre for Legal Policy, 3 November 2020), <https://vidhilegalpolicy.in/research/enforcing-caveat-venditor/> accessed 3 March 2025
9. Mukul S, 'Farming Yields Rs 4,500 a Month, Less than What You'd Splurge on a Dinner Date' (India Today, 17 December 2024) <https://www.indiatoday.in/india/story/india-farmer-rich-poor-income-monthly-yearly-from-farming-profitable-disparity-nabard-study-2647144-2024-12->

10#:~:text=The%20report%20also%20noted%20that,covering%20one%20lakh%20farm%20families accessed 4 March 2025

10. Paul S, 'Analysing the Legitimacy of Auctioning of Secured Assets in an "as Is, Where Is, Whatever Is" Manner: A Call for Adopting the Doctrine of Caveat Venditor – Part II' (NLIU Bhopal, 10 June 2022) <https://cbcl.nliu.ac.in/uncategorized/analysing-the-legitimacy-of-auctioning-of-secured-assets-in-an-as-is-where-is-whatever-is-manner-a-call-for-adopting-the-doctrine-of-caveatvnditor-part-ii/> accessed 3 March 2025
11. Samervel R, 'Women Awarded Rs 35 Lakhs Each over Defective Hip Implants by Johnson & Johnson: Mumbai News - Times of India' (The Times of India, 22 September 2024) <https://timesofindia.indiatimes.com/city/mumbai/women-awarded-rs-35-lakhs-each-overdefective-hip-implants-by-johnson-johnson/articleshow/113558295.cms> accessed 4 March 2025
12. Singh S, 'Cuttack District Commission Holds Vishal Mega Mart Liable of Selling Expired Products, Orders to Compensate Buyer, Pay Rs. 5 Lakhs to State Welfare Fund' (Live Law, 23 December 2023) <https://www.livelaw.in/consumer-cases/cuttack-district-commission-holds-vishal-mega-mart-liable-of-selling-expired-products-orders-to-compensate-buyer-pay-rs-5-lakhs-to-state-welfare-fund-245232> accessed 2 March 2025
13. 'Truth in Lending' (Office of the Comptroller Currency, 6 April 2019) <https://www.occ.treas.gov/topics/consumers-and-communities/consumer-protection/truth-in-lending/index-truth-in-lending.html#:~:text=The%20Truth%20in%20Lending%20Act,for%20certain%20types%20of%20loans> accessed 3 March 2025
14. Tulsyan A, 'RELOCATING RESPONSIBILITY: EVOLVING FROM CAVEAT EMPTOR TO CAVEAT VENDITOR VIS-À-VIS THE INDIAN SALE OF GOODS ACT' (2022) 2 National Journal for Legal Research and Innovative Ideas
15. Zunjarrao P, "'Customer Is King": What It Means in Today's Market' (Business Wise, 12 December 2020) <https://businesswise.in/roundup/details/487/Customer-is-King-What-it-means-in-TodaysMarket> accessed 3 March 2025