

CONSUMER PROTECTION IN MALAYSIA AND THE ROLE OF THE HIRE-PURCHASE ACT 1967 IN THE CONTRACT FOR THE SUPPLY OF GOODS

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Abstract:

Consumer protection is a critical issue in the supply of goods in Malaysia, especially with the increasing use of advanced technology in production and distribution. The complexity of these processes has led to frequent exploitation and fraud by unethical traders, putting consumers at risk. One of the legal frameworks addressing consumer protection in Malaysia is the Hire-purchase Act 1967, which aims to safeguard hirers in hire-purchase transactions. This study adopts a doctrinal qualitative research approach to examine the implied conditions and warranties in the Hire-purchase Act 1967. By analysing primary and secondary legal materials, including statutory provisions and case law, this research evaluates the protecting given to consumers. While the Act seeks to prevent exploitation and promote fair business practices, its exclusion of second-hand goods from provisions on merchantable quality and fitness for purpose presents a significant limitation. Therefore, revising these provisions is essential to ensure broader consumer protection and strengthen the rights of hirers in hire-purchase agreements.

Keywords:

Consumer Protection, Hire-Purchase, Hire-Purchase Act 1967, Implied Conditions And Warranties, Protection Of Hirer, Supply Of Goods.

Introduction

The issue of consumer protection is a crucial one when discussing supply of goods in Malaysia. As we know, consumers constitute the largest economic group, influencing and being influenced by nearly every economic decision made by the government. Therefore, it is only fair that this group is granted protection (Kennedy, 1962). Furthermore, in this era of globalization, the use of advanced technology for the distribution of goods and the production of goods through complex processes has led to frequent exploitation and fraud by unethical traders against honest consumers (Sakina, 1995). The free-market economic system, or *laissez-faire*, practiced in Malaysia has also created an imbalance in bargaining power between consumers and suppliers. Consumers, who should be the "kings" of the market, have instead become victims due to this power imbalance (Sakina & Rahmah, 2003). This issue is one of the main causes of defective goods being supplied to consumers. It will continue to haunt consumers if they are not provided with the necessary protection (Khadijah et al, 2024). Consumers are also seen to be having problems in navigating compensation (Aiman, 2024). The most appropriate protection that should be offered to consumers is legal protection (Murphy, 1973). In Malaysia, one of the legal frameworks which provides protection to consumers is the Hire-purchase Act 1967. The Act aims to protect the hirer in dealing with hire-purchase transactions with owner. However, there are certain limitations in the Act in providing protection to the hirer. For the purpose of this paper, hirer is also considered as a consumer as it falls under the definition of consumer under section 3(1) Consumer Protection Act 1999. Section 3(1) states that consumer is "a person who acquires or uses goods or services of a kind ordinarily acquired for personal, domestic or household purpose, use or consumption." This definition reflects hirer as a consumer since hirer is someone who acquires goods or services for domestic or household purposes only. Owing to this, the primary objective of this study is to examine the extent of protection afforded to hirers under the Hire Purchase Act 1967. To achieve the objective, this study focuses specifically on the implied conditions and warranties stipulated under Section 7 of the Hire Purchase Act 1967.

Methodology

This study employs doctrinal qualitative research, which is essential to achieving its objective of identifying specific provisions under the Hire-purchase Act 1967 related to implied conditions and warranties. This requires a doctrinal analysis by examining existing primary and secondary materials, mainly statutory provisions and case law. (Myneni, 2006). Doctrinal research deals with the law on a particular issue where the legal doctrine is analysed as to its development and applications (Abdullah, 2020). It comprises a comprehensive study of the legal doctrine with its development process and legal reasoning (Neuman, 1991). This type of method is selected because the basic aims of this research are to discover, explain, examine, analyse and present in a systematic form, facts, principles, provisions, concepts, theories, or the working of certain laws (Yaqin, 2007). The method is also selected because it allows for a comparative and historical inquiries to describe the earlier point in time of contrasting legal principles (Hutchinson et al, 2012). The research process is illustrated in Figure 1.

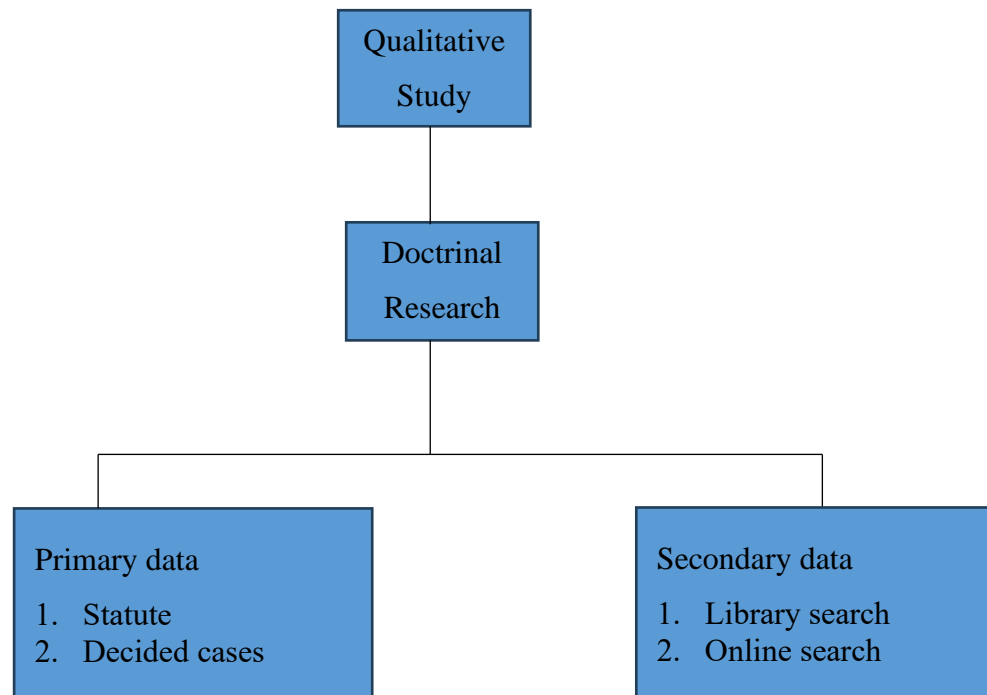


Figure 1: Research Process

Hire-Purchase Act 1967

The Hire-purchase Act 1967 (HPA 1967) is one of the pre-1999 laws governing the supply of goods in Malaysia. The Act aims to regulate and control the content of hire-purchase agreements, as well as the rights, duties, and liabilities of the parties to such agreements. The HPA 1967 was adapted from the Hire-purchase Act 1960 (New South Wales, Australia) (Shaik, 2000). The parties involved in a hire-purchase agreement are the hirer and the owner. A hire-purchase agreement is defined under Section 2 of the HPA 1967 as *includes a letting of goods with an option to purchase and an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise), but does not include any agreement:*

- (i) *whereby the property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods; or*
- (ii) *under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement.*

A hire-purchase agreement is an arrangement where the hirer acquires goods by making an initial deposit payment followed by instalments over a specified period. During the instalment payment period, the hirer is deemed to be hiring the goods from the owner until the full payment of instalments is completed. Ownership will only transfer from the owner to the hirer upon full payment of all instalments. The definition of a hire-purchase agreement was elaborated in *Credit Corp. (M) Bhd. v Malaysia Industrial Finance Corp. & Anor. [1967] 1 MLJ 83*. This

case involved a hire-purchase agreement for a car between the hirer and the owner. The hirer failed to pay the instalments, prompting the owner to repossess the car. The hirer claimed the repossession was unlawful and sought damages. The court held that the agreement was indeed a hire-purchase agreement governed by the HPA 1967. Ownership would not transfer to the hirer unless the hirer paid all instalments and exercised the option to purchase. Thus, the owner had the right to repossess the car.

Similarly, in *Tractors Malaysia Bhd. v Kumpulan Pembinaan Malaysia Sdn. Bhd.* [1979] 1 MLJ 129, the appellant entered into a hire-purchase agreement for a bulldozer with the respondent. The respondent failed to make instalment payments, leading to the repossession of the bulldozer by the appellant. The agreement continued with the respondent paying the outstanding instalments and all related repossession costs. However, the respondent again defaulted on payments. The appellant claimed the remaining price of the bulldozer along with costs and damages. The respondent later paid the full balance, and ownership of the bulldozer was transferred to the respondent. The respondent then argued that the agreement was a hire-purchase agreement, and that the appellant's repossession was unlawful. Since the agreement involved instalment payments and ownership would only transfer upon completion of the instalments, the court held that it was a hire-purchase agreement rather than a sales agreement.

The HPA 1967 applies only to agreements involving goods listed in the First Schedule of the Act, as provided under Section 1(2) HPA 1967. The list includes:

1. *All consumer goods;*
2. *Motor vehicles, specifically:*
 - (a) *Invalid carriages,*
 - (b) *Motorcycles,*
 - (c) *Motorcars, including taxis and hire cars,*
 - (d) *Goods vehicles with a maximum laden weight not exceeding 2540 kg,*
 - (e) *Buses, including stage buses.*

The above provision indicates that the HPA 1967 was enacted to protect consumers. Consumers entering hire-purchase agreements for consumer goods are safeguarded under the Act. However, goods not listed in the First Schedule may also fall under the Act if all parties involved agree to adopt its provisions.

From a consumer protection perspective, the HPA 1967 also provides several implied terms under Section 7 to protect hirers from exploitation by sellers and owners (Lee, 2005). Section 7 provides for conditions and warranties to be implied in every hire-purchase agreement. It is illustrated in Table 1.

Table 1: Implied Conditions and Warranties under the Hire-Purchase Act 1967

No.	Section	Implied Condition and Warranty
1.	Section 7(1)(a)	Implied Warranty as to Quiet Possession
2.	Section 7(1)(b)	Implied Condition as to Title
3.	Section 7(1)(c)	Implied Warranty that goods are free from any charges or encumbrances
4.	Section 7(2)	Implied Condition as to Merchantable Quality
5.	Section 7(3)	Implied Condition as to Fitness for Particular Purpose

Section 7 (1), In every hire-purchase agreement there shall be-

- (a) an implied warranty that the hirer shall have and enjoy quiet possession of the goods;*
- (b) an implied condition on the part of the owner that he shall have a right to sell the goods at the time when the property is to pass;*
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party at the time when the property is to pass.*

Section 7 (2), In every hire-purchase agreement there shall be an implied condition that the goods shall be of merchantable quality, but such a condition shall not be implied-

- (a) where the hirer has examined the goods or a sample thereof, as regards defects which the examination ought to have revealed; or*
- (b) if the goods are second-hand goods and the agreement contains a statement to the effect that-*
 - (i) the goods are second-hand; and*
 - (ii) all conditions and warranties as to quality are expressly negatived, and the owner proves that the hirer has acknowledged in writing that the statement was brought to his notice.*

Section 7(3), Where the hirer expressly or by implication makes known to the owner or the dealer or any servant or agent of the owner or dealer the particular purpose for which the goods are required, there shall be implied in the hire-purchase agreement a condition that the

goods shall be reasonably fit for that purpose, but such a condition shall not be implied if the goods are second hand goods and the agreement contains a statement to the effect-

- (a) That the goods are second-hand; and*
- (b) That all conditions and warranties of fitness and suitability are expressly negatived, and the owner proves that hirer has acknowledge in writing that the statement was brought to his notice.*

From the provision above, it is clear that the implied conditions and warranties provided under the HP Act 1967 are as follows:

1. An implied warranty as to quiet possession (Section 7(1)(a));
2. An implied condition as to title (Section 7(1)(b));
3. An implied warranty that goods are free from any charges or encumbrances (Section 7(1)(c));
4. An implied condition as to merchantable quality (Section 7(2)); and
5. An implied condition as to fitness for a particular purpose (Section 7(3)).

Consumer Protection under The Hire-purchase Act 1967

Implied Warranty as to Quiet Possession under Section 7(1)(a)

The implied warranty as to quiet possession under Section 7(1)(a) of the HPA 1967 provides that the hirer shall have and enjoy quiet possession of the goods throughout the hire-purchase agreement. This warranty is crucial to ensuring that hirers are not deprived of the use or enjoyment of the goods due to interference by the owner, third parties, or claims on the goods. The provision reflects a core element of consumer protection in hire-purchase agreements.

The warranty provides that the hirer has the right to use the goods without any unlawful interference and one should disturb or attempt to seize the goods unless legally justified. If a third-party claims ownership or legal rights over the goods and disturbs the hirer's possession, this breaches the warranty. If the hirer's quiet possession is disturbed due to defects in the owner's title or third-party claims, the owner or seller can be held liable (Wu Min Aun, 1994).

The warranty of quiet possession has been applied in several key cases to demonstrate its importance. *Microbeads AC v Vinhurst Road Markings Ltd [1975] 1 WLR 218* illustrates that the buyer of road-marking equipment faced interference when a third party, holding a patent for the equipment, successfully enforced their rights. The court held that the seller had breached the implied warranty of quiet possession because the buyer's ability to use the goods was disturbed. Although this case involved the Sale of Goods Act 1893, the principle applies to hire-purchase agreements under the HPA 1967. This case emphasizes that quiet possession is breached not only by physical interference but also by legal claims, such as intellectual property rights, which prevent the hirer from using the goods.

In *National Employers' Mutual General Insurance Association Ltd v Jones [1990] 1 AC 24*, a car transferred to a hirer was later repossessed because it had been stolen before being sold to the dealer. The hirer was deprived of quiet possession due to the defective title. While the case centered on title issues, it indirectly highlights that a breach of quiet possession occurs when a third party's superior title interferes with the hirer's use of the goods. This case illustrates the

significance of quiet possession in ensuring that the hirer is not disrupted by ownership disputes.

Ng Ngat Siang v Arab-Malaysian Finance Bhd. & Anor [1988] 3 MLJ 319 involved a hire-purchase agreement for a car. The hirer faced repossession by a third-party claiming ownership. The court held that mere possession by the defendant (finance company) did not grant it authority to sell the car or provide the hirer with quiet possession. The decision highlights the importance of ensuring that the owner or seller in a hire-purchase agreement has clear ownership or rights over the goods to fulfil the implied warranty of quiet possession.

The implied warranty of quiet possession under Section 7(1)(a) of the HPA 1967 is a vital component of consumer protection in hire-purchase agreements. Decided cases illustrate its role in ensuring uninterrupted use of goods by hirers and protecting them from third-party claims or defective titles. This provision not only safeguards consumer rights but also promotes ethical business practices and legal certainty within the hire-purchase framework.

Implied Condition as to Title under Section 7(1)(b)

The implied condition regarding title under Section 7(1)(b) of the HPA 1967 ensures that the owner of the goods under a hire-purchase agreement has the right to transfer ownership to the hirer once all conditions of the agreement are fulfilled. This provision protects hirers from entering into agreements involving goods where the owner lacks proper title, thereby preventing disputes, interruptions in possession, or financial losses.

The implied condition ensures that the owner has legal authority to transfer ownership to the hirer. The application of this condition is rooted in a sale of goods case which is *Rowland v Divall [1923] 2 KB 500*. In this case, the plaintiff purchased a car from the defendant, which was later revealed to have been stolen. The plaintiff was required to return the car to its rightful owner and sought to recover the price he had paid. The court held that the seller had breached the implied condition of title because they did not have the legal right to sell the car. Although this case was decided under the Sale of Goods Act 1893, the principle applies to hire-purchase agreements. The owner in a hire-purchase agreement must ensure they have a valid title to transfer ownership to the hirer upon fulfilment of the agreement.

In *Ng Ngat Siang v Arab-Malaysian Finance Bhd & Anor [1988] 3 MLJ 319*, a hire-purchase agreement for a car was contested because the car had been previously sold fraudulently. The court noted that mere possession did not give the finance company the authority to sell or transfer the title to the hirer. This highlighted the importance of the owner's obligation to ensure a valid title. The decision underscores that a defect in the title can severely affect the hirer's rights and remedies, making the implied condition of title a critical element of hire-purchase agreements.

In *Public Finance Berhad v Ehwan Bin Saring [1989] 1 MLJ 458*, the hirer entered into a hire-purchase agreement for a vehicle. It was later discovered that the owner did not have a valid title to the vehicle at the time of the agreement. The court held that the owner breached the implied condition under Section 7(1)(b) of the Hire-Purchase Act 1967, as they did not have the right to sell the vehicle when the property was to pass to the hirer.

The case *Ling Swee Lin v. Public Finance Bhd & Anor* [2007] 1 MLRH 761 addresses issues related to the implied condition as to title. In this case, Public Finance Bhd breached the implied condition as to title which mandates that the owner has the right to sell the goods at the time when the property is to pass to the hirer. The plaintiff, Ling Swee Lin, entered into a hire-purchase agreement with Public Finance Bhd for a motor vehicle. Subsequently, the vehicle was seized by the police on the grounds that it was reported stolen prior to the agreement. The court held that Public Finance Bhd had breached the implied condition as to title. Since the vehicle was stolen property, the finance company did not possess a valid title and, therefore, had no right to sell the vehicle under the hire-purchase agreement.

The implied condition regarding title under Section 7(1)(b) of the HPA 1967 is fundamental to protecting hirers in hire-purchase agreements. Decided cases such as illustrated above highlight its importance in ensuring that the owner has the authority to transfer ownership free from defects or third-party claims. Sometimes the owner might have the right to dispose the ownership but they did not have the right to sell (Azmi,) This condition not only safeguards consumer rights but also promotes diligence and integrity among owners, contributing to the overall effectiveness of hire-purchase transactions.

Implied Warranty that Goods are Free From any Charges or Encumbrances under Section 7(1)(c)

Section 7(1)(c) of HPA 1967 provides an implied warranty that goods supplied under a hire-purchase agreement are free from any charges or encumbrances in favour of third parties, except as disclosed to the hirer before the agreement is made. This warranty is essential in protecting the hirer's rights to uninterrupted use and eventual ownership of the goods, free from claims by third parties.

The warranty under Section 7(1)(c) ensures that hirers are not subject to unexpected claims or legal disputes due to undisclosed charges or encumbrances on the goods. This warranty has been applied in various cases:

Microbeads AC v Vinhurst Road Markings Ltd [1975] 1 WLR 218. In this case, the buyer of road-marking equipment discovered that the goods were subject to a third-party patent claim, which interfered with their use. The court held that the seller had breached the implied warranty by failing to disclose the patent claim. While this case arose under the Sale of Goods Act, the principle applies to hire-purchase agreements under HPA 1967. The hirer is entitled to use the goods without interference arising from encumbrances or third-party claims.

Lee Wah Bank Ltd v Ang [1968] 1 MLJ 65. This case involved goods that were subject to a third-party claim during a hire-purchase agreement. The court emphasized that the implied warranty against encumbrances was breached when the goods were encumbered without disclosure to the hirer. This case highlights the importance of ensuring that goods in hire-purchase agreements are free from encumbrances, as undisclosed claims can disrupt the hirer's possession and usage.

Ng Ngat Siang v Arab-Malaysian Finance Bhd & Anor [1988] 3 MLJ 319. In this case, a hire-purchase agreement for a car was invalidated due to the car being fraudulently sold and encumbered by a prior claim. The court found that the implied warranty of freedom from encumbrances had been breached, as the hirer was unaware of the issue.

The decision underscores the legal obligation of owners to disclose any encumbrances and protect the hirer from unforeseen claims that could compromise their rights.

The implied warranty under Section 7(1)(c) of the HPA 1967 plays a vital role in safeguarding the rights of hirers by ensuring that goods are free from undisclosed charges or encumbrances. Decided cases such as *Microbeads AC v Vinhurst Road Markings Ltd* and *Ng Ngat Siang v Arab-Malaysian Finance Bhd* demonstrate its practical application in protecting hirers from interference and loss. This warranty not only ensures consumer protection but also promotes ethical practices and transparency in hire-purchase agreements, reinforcing confidence in the system.

Implied Condition as to Merchantable Quality (Section 7(2))

Section 7(2) of the Hire-purchase Act 1967 (HPA 1967) establishes that goods supplied under a hire-purchase agreement must be of merchantable quality, except where the hirer has inspected the goods in such a manner as to reveal the defect. This implied condition ensures that the goods are fit for their general purpose, providing protection to hirers and promoting fairness in hire-purchase transactions.

The condition of merchantable quality is applied to ensure that goods supplied under hire-purchase agreements are fit for their ordinary use and free from significant defects. The following cases illustrate its application:

Grant v Australian Knitting Mills Ltd [1936] AC 85. In this case, a consumer purchased underwear that caused a skin condition due to a defect in the material. The court held that the goods were not of merchantable quality, as they were unsuitable for their ordinary purpose. The principle that goods must be of merchantable quality applies to hire-purchase agreements. Goods with defects that render them unfit for ordinary use breach the implied condition under Section 7(2).

Bartlett v Sidney Marcus Ltd [1965] 1 WLR 1013. This case involved the sale of a second-hand car with a defective clutch. The court held that while the car was not perfect, it was of merchantable quality because it could still be driven safely. The condition of merchantable quality applies even to second-hand goods under hire-purchase agreements, provided the goods meet reasonable standards expected for their price and description.

Feast Contractors Ltd v Ray Vincent Ltd [1977] 1 NZLR 212. This case concerned a second-hand engine that failed shortly after use. The court held that the engine was not of merchantable quality because it was unfit for the purpose for which it was sold. The decision emphasizes that goods under hire-purchase agreements must be capable of performing their ordinary functions for a reasonable duration.

Tan Chong & Sons Motor Co (Sdn) Bhd v Alan McKnight [1983] 1 MLJ 220. This case involved a hire-purchase agreement for a vehicle that developed serious defects shortly after delivery. The court ruled that the vehicle was not of merchantable quality, as it failed to perform its basic functions as expected. The case highlights the application of the condition of merchantable quality in Malaysia, ensuring that goods supplied under hire-purchase agreements meet reasonable standards of usability.

The implied condition of merchantable quality under Section 7(2) of the HPA 1967 is vital for ensuring that goods supplied under hire-purchase agreements meet reasonable standards of usability. Cases such as *Grant v Australian Knitting Mills* and *Bartlett v Sidney Marcus Ltd.* demonstrate the application of this principle in protecting hirers from defective goods. The condition reinforces consumer protection, promotes fairness, and enhances confidence in the hire-purchase system, making it a cornerstone of the legislation.

Implied Condition as to Fitness for A Particular Purpose (Section 7(3))

Section 7(3) of the Hire-purchase Act 1967 (HPA 1967) establishes an implied condition that goods supplied under a hire-purchase agreement must be fit for the particular purpose for which the hirer requires them, provided the hirer makes this purpose known to the owner or supplier (Sakina, 2001). This provision ensures that goods meet the specific needs of the hirer, promoting fairness and consumer protection.

This condition applies when the hirer informs the owner or supplier of a specific purpose for which the goods are required. The owner or supplier is then obligated to ensure that the goods are suitable for that purpose. Relevant cases illustrate its application:

Grant v Australian Knitting Mills Ltd [1936] AC 85. In this case, the plaintiff purchased underwear after informing the seller of his specific requirements. The underwear caused a skin condition due to chemical residues. The court held that the seller breached the implied condition of fitness for a particular purpose. This principle applies to hire-purchase agreements, ensuring that goods meet the hirer's stated needs.

Sri Siva Saravanakumar v Affin Bank Bhd [2002] MLRHU 853. The Plaintiff bought a car from the 1st Defendant. Sri Siva obtained hire-purchase financing from the 2nd Defendant. Sri Siva sued Naza Kia and Affin Bank in the Sessions Court alleging there were defects in the car. Affin Bank filed an application to strike out the suit. This was allowed by the Sessions Court on 3 June 2021. In essence, the Sessions Court accepted the submissions of Affin Bank that Sri Siva had examined the car at the time of taking delivery of the car from Naza Kia and had signed the vehicle delivery order dated 5 April 2019 which states that he had received the car "in good order and condition". The plaintiff later appeal to the High Court. According to High Court, the plaintiff had inspected the car and signed the Vehicle Delivery Order which states that he had received the car "in good order and condition." However, it is a disputed issue whether the defects in our case are "defects which examination ought to have revealed." Thus, the court decided in favour of the plaintiff.

Perfect Kam Hung Sdn Bhd v Cheah Tai Hoe & Anor [2011] 10 MLRH 676. This is a case after a full trial where the subject matter is a tipper lorry. The Plaintiff, as the purchaser, sues the Defendants for breach of contract and/or a repudiation of the contract. The Plaintiff claims the Defendants failed to deliver the tipper lorry in a roadworthy and good working order and condition and additionally failed to deliver within the stipulated time agreed between the parties. Eventhough the case involved of a second-hand vehicle, it has to be "safe and roadworthy" and "fit for the purpose as it was reasonable to expect. A second-hand vehicle must still be reliable and capable of giving good service and fair performance.

The implied condition of fitness for a particular purpose under Section 7(3) of the HPA 1967 ensures that goods supplied under hire-purchase agreements are suitable for the hirer's stated needs. Decided cases such as *Grant v Australian Knitting Mills Ltd* and *Baldry v Marshall*

highlight its application in protecting hirers and promoting fairness. This provision strengthens consumer rights, promotes responsible practices, and enhances the credibility of hire-purchase agreements.

Limitation of the Provisions

Despite the government's aim to ensure consumer protection, these implied terms have certain weaknesses. The implied condition regarding "title" reflects similar issues with the implied condition of "right to sell" under Section 14(a) of the Sale of Goods Act 1957. The definition of "right to sell" was explained in *Niblett Ltd v Confectioners' Materials Co Ltd* [1921] All ER Rep 459. In this case, the court held that although the seller had the right to dispose of ownership, they did not have the right to sell. This definition was applied in *Ng Ngat Siang v Arab-Malaysian Finance Bhd. & Anor* [1988] 3 MLJ 319, involving a hire-purchase transaction. Justice Siti Norma Yaakob argued that "mere possession alone does not give the second defendant the apparent authority to sell the car."

Exemption clauses under the HPA 1967 also disadvantage the hirers (Zeti, 2022), as highlighted in Sections 7(2) and 7(3). Section 7(2) provides that goods under a hire-purchase agreement must be of merchantable quality. If not, the owner is deemed to have breached the implied condition, and the hirer may seek remedies. However, this does not apply to second-hand goods if the agreement explicitly states that the goods are second-hand and excludes all implied terms and warranties regarding quality (Naemah, 2013).

Section 7(3) stipulates that goods under a hire-purchase agreement must be suitable for their intended purpose. However, this condition is also excluded for second-hand goods with explicit disclaimers in the agreement. This provision is unfair to consumers, as even second-hand goods are expected to function for a reasonable duration. This principle was discussed in *Bartlett v Sydney Marcus* [1965] 2 All ER 753.

This case involved the sale of a second-hand Jaguar car. The consumer knew the car had minor issues but found that the problems worsened after use. The court held that the car was "reasonably fit for the purpose" if it could be driven safely. Lord Denning MR stated, "a second-hand car is reasonably fit for the purpose if it is in a roadworthy condition, fit to be driven along the road in safety, even though not as perfect as a new car." The same principle was applied in New Zealand in *Feast Contractors Ltd v Ray Vincent Ltd*. 1 NZLR 212, involving a second-hand engine that functioned for only 48 hours. The court ruled that the engine was of "merchantable quality" despite being second-hand.

These discussions justify that the implied terms regarding merchantable quality and fitness for a particular purpose for second-hand goods under the HPA 1967 should not be excluded because consumers expected second hand goods to function for a reasonable time. The presence of such provisions reflects some weaknesses in the HPA 1967, one of Malaysia's pre-1999 laws governing the supply of goods.

Conclusion

The Hire-purchase Act 1967 (HPA 1967) protects consumers by regulating hire-purchase agreements, ensuring fair terms, and safeguarding hirers' rights. A hire-purchase agreement allows a hirer to acquire goods through instalment payments, with ownership transferring only after full payment. The Act applies to consumer goods and motor vehicles, ensuring protections

to hirers. Key cases, including *Credit Corp. (M) Bhd. v Malaysia Industrial Finance Corp.* and *Ng Ngat Siang v Arab-Malaysian Finance Bhd.*, highlight the application of these protections. Courts have upheld hirers' rights when goods were repossessed unfairly or found to be defective, emphasizing the need for clear ownership and quality assurance. These provisions enhance consumer protection, prevent exploitation, and promote fair business practices in hire-purchase transactions. However, provisions related to merchantable quality and fitness for purpose which exclude second-hand goods are weaknesses to the Hire-purchase Act 1967 in protecting the hirer. It is submitted the study achieved its objective. The Hire-Purchase Act 1967 is able to protect the consumers on the market, however, there are drawbacks of the Act. To address these issues, the government has enacted the Consumer Protection Act 1999 (CPA 1999). It is hoped the problems in pre-1999 supply of goods laws can be resolved by the application of Consumer Protection Act 1999.

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Authors' Contribution

Zeti Zuryani Mohd Zakuan is the main and corresponding author responsible to interpret the law and conclude the study. She is responsible to prepare the manuscript. Siti Asishah Hassan and Noraini Ismail are responsible for reviewing the literature.

Conflict of Interest

The authors reported no conflicts of interest for this work and declare that there is no potential conflict of interest with respect to the research, authorship, or publication of this article.

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