

# Section 13 of the sale of goods act 1979

Law



Based on a long common law history and once an important measure in sales contracts, s. 13 Sale of Goods Act 1979 has now become unnecessary and irrelevant.'

## **Introduction**

Section 13 of the Sale of Goods Act 1979 was previously considered an important measure in sales contracts. It now appears irrelevant and unnecessary and therefore in need of abandonment. This essay will discuss why s. 13 is no longer relevant by analyzing its flaws and demonstrating how the requirement that 'goods must match their description' can be enforced elsewhere.

## **Overview of Section 13 Sale of Goods Act 1979**

Section 13 of the Sale of Goods Act (SGA) 1979 states that where there is a contract for the sale of goods by description, there exists an implied term that the goods will correspond with that description. This section only applies to goods that are sold by their description only. If the buyer has the chance to see the goods before making their purchase, then this section cannot be relied upon. An example of this can be seen in the case of *Harlington & Leinster v Christopher Hull Fine Art* [1991] 1 QB 564 where goods were described as a Gabrielle Munter painting in an auction catalog.

Both the buyers and sellers were London art dealers, yet the sellers were not experts in German paintings whilst the buyers were. The buyers also sent their experts to inspect the painting before agreeing to purchase the painting for 6000. The buyers sought to rely on s. 13 when it was found that the painting was a fake, but it was held that the sale was not by description

because an expert had been sent to inspect the painting. This indicates that even if goods are originally being sold by description, once a buyer has had the opportunity to inspect the goods they can no longer seek protection under s. 13.

### **Rejection of Goods not Matching Exact Description**

In *Arcos v Ranaason* [1933] AC 470 it was demonstrated that the duty of the seller is extremely strict (Atiya et al; 2010: 154). Here, a buyer was entitled to reject goods that were described as being 1/2 an inch thick on the basis that some of them were slightly less than this. Even though the quality of the goods was not affected, it was said that the goods were not as described and could therefore be rejected. This is likely to cause many problems as the purchaser in the *Arcos* case had simply changed his mind about purchasing the goods and then sought to rely on s. 13 to reject them even though the description did not prevent him from using the goods for their intended purpose. As s. 13 is narrowly interpreted, it is capable of being used in circumstances that would seem inappropriate. In *Re Moore & Landauer* [1921] 2 KB 519 it was held that the purchaser was entitled to reject goods that were described as being packed in cases of 30 when they were packed in cases of 24. This was despite the fact that the overall number of goods was correct. Arguably, s. 13 is interpreted very strictly and a slight deviation from the description of the goods will be enough for a purchaser to reject them.

### **Narrow Interpretation of Section 13**

As pointed out by the Department of Business Innovation and Skills; “Description takes on a very narrow meaning, referring only to the  
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commercial characteristics of the goods” (BIS, 2010: 24). Statements that have been made about the goods, or aspects of the specification of the goods are not covered by s. 13, illustrating its restrictiveness (Ashington Piggeries Ltd. v Christopher Hill Ltd. [1971] 1 All ER 847). This section also appears to conflict with the European Union Directive 99/44/EC which provides that the “ description” of goods will also include the “ description given by the seller”. The Directive thus appears to encompass a wider range of characteristics, thereby providing extra protection to the sale of goods. Sections 3, 8, 11C and 11I of the Supply of Goods and Services Act (SGSA) 1982 and s. 9 of the Supply of Goods (Implied Terms) Act (SG(IT)A) 1973 also have identical provisions to s. 13. Because of this, it is questionable why 13 is needed given that its application is extremely rigid. The requirement that goods must match their description can be found in other pieces of legislation, thus demonstrating that s. 13 is no longer necessary or relevant.

### **Section 13 Unnecessary and Irrelevant**

Section 13 was originally only supposed to apply to commercial sales of unascertained or future goods (Brown, 1990: 561). In such instances, a description of the goods would have been a necessary requisite that sellers would have provided to purchasers before a sales contract was entered into (Sealey and Hooley, 2008: 401). Since the Harlington & Leinster case, however, it seems as though s. 13 is now being applied to sales of specific goods. Reliance upon description is not an essential ingredient, which is unjustifiable in that contracts can be rescinded in circumstances which they would not otherwise have been. The parties will also be required to demonstrate that they intended for the description to be a term of the

contract if they want to find a breach of contract; *Drake v Thos Agnew & Sons Ltd* [2002] EWHC 294 (QB). Consequently, s. 13 is no longer relevant in the 21st century as protection can be sought against wrongly described goods through other provisions.

## **Conclusion**

Overall, it seems as though s. 13 is in fact irrelevant and unnecessary in the 21st Century. Whilst it was previously thought to be an important component in contract sales, it is no longer required as a result of superseding legislation and because of its narrow interpretation by the courts. It could be argued that s. 13, therefore, needs abandoning as it seems to prevent purchasers from rescinding a contract if they had a chance to inspect goods even if they were later found to be fraudulent. This is largely unfair as a fraudulent painting may not be easily identifiable at first and may require a more thorough inspection which could not be achieved without first making a purchase. Whilst goods must always match their description, goods that fail to do so will be protected through other legislative provisions. As such, s. 13 is no longer needed and does not seem as relevant as it once was.

## **References**

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## **Case Law**

- Arcos v Ranaason [1933] AC 470
- Ashington Piggeries Ltd. v Christopher Hill Ltd. [1971] 1 All ER 847
- Drake v Thos Agnew & Sons Ltd [2002] EWHC 294 (QB)
- Harlingdon & Leinster v Christopher Hull Fine Art [1991] 1 QB 564
- Re Moore & Landauer [1921] 2 KB 519.