

How can one speculate with the concept of excessive use

[Law](#)



Mr. Robert Ember, who died on January, of old age, left a will stating that the beneficiary of all his properties, including the furniture and appliances, his cars and stock investments will be his only son, Christopher Ember, who at the age of 30 remained single.

Christopher has to fulfill the condition precedent that is the prerequisite for him to be awarded the inheritance. Luckily, he was already employed as a Marketing Liaison Officer in one of the local hotels in the city. He immediately took possession of the beautiful house left in his care and all the assets that went with it. The first evening he was alone, he decided to watch a film in the Sunnie 60" flat screen television. He was shocked as he turned on the TV when he saw that there was an ugly discoloration on the entire face of the screen, which looked like large blotches of ink thrown at the TV. He checked the records pertaining to the television, and he found out that it was purchased within six months for \$5, 000. 00. He is aware of the warranties that go with the television unit. He browsed over the shrink-wrap agreement that he found in one of the drawers in the office. The shrink-wrap agreement is usually attached in the box of the unit, the contents of which probably had not been discussed with the buyer. He discovered the conditions of the services that may be rendered for the unit bought and the terms of the warranties. To make it look more official, the conditions are written in various languages, and in very fine prints, to discourage the purchaser from reading it. The following morning, he complained to the dealer of Sunnie, which is the Sunrise Appliance Store, and he was told that the store could not honor the warranties in this instance because the

problem was caused by excessive use of the unit. They can repair it, but they would have to charge the cost in the amount of \$2, 200. 00. They pointed out under section E found in the shrink-wrap agreement, that it said, “ Excessive use is specifically not covered by any warranty.” Christopher was quick to anger. Luckily he brought his lawyer with him. The lawyer accused the dealer of using an ambiguous term such as “ excessive use” because this is a relative term and highly questionable since no one can prove that the usage was excessive. The purpose for which the term was used and to analyze its internal structure is likewise debatable.

The dealer tried to pacify them, and he attempted to pass on the blame to the seller which was the Sunnie Corp. However, he was told outright that it was not indeed covered by the warranty agreement. The lawyer threatened to sue Sunnie Corp., but he reminded himself that Christopher, whom he represents, is the third party in this transaction, thus under the principle, privity of contract, it prevents them to bring Sunnie Corp. and Sunrise Appliance Store to court, because Christopher is not a party in the contract between Sunnie as the main seller, and Sunrise as the dealer of Sunnie, hence, he has no power to enforce the terms of the contract.

As days went by, Christopher did some research about the product, and to his consternation, there was an article that was published on the internet that the 60” TV that his father bought contained factory defect, and indeed, Sunnie Corp. had been trying to recall all the units that they had sold. He believed that the conduct of Sunnie Corp. was quite unconscionable having

displayed conduct devoid of conscience, to the effect of being grossly unfair by refusing to repair the unit for free. To their dismay, up to now, they could not do anything about the problem, but continue to watch the tv with distorted colors.