

The Buyer's Right of Rejection

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Abstract

The study of whether the buyer has the right to reject defective objects is the core issue of the cases of breach of contract. It involves whether the buyer will constitute delay in acceptance and performance as (s)he violates the duty of acceptance, should (s)he refuses to accept defective objects. It is also related to whether the buyer will constitute delay in performance of the payment obligation of the contractual price, should (s)he then refuses to pay the contractual price.

This article asserts that there are three grounds on which the buyer may refuse to accept defective objects: 1. the buyer may refuse acceptance because (s)he may exercise the right of termination or the right to claim greater damages before transfer of risks; 2. the buyer may refuse acceptance because (s)he would exercise the right of termination or the right to claim greater damages or replacement after acceptance. In other words, (s)he may refuse acceptance by claiming that (s)he would raise the defense that (s)he would return the object; 3. the buyer may refuse acceptance because the defective object delivered by the seller is curable. Thus, if the object delivered by the seller has incurable defects, the buyer may not refuse to accept it because it has defects. Therefore, if the buyer wishes to refuse it, (s)he has to do so through raising the defense that (s)he would return the object. Nevertheless, no matter on what ground the buyer refuses acceptance, Paragraph 2 of Article 148 of the Civil Code expressly specifies that the exercise of rights and the performance of obligations shall be in good faith. It is thus without saying that the principle of good faith may be the limit of the buyer to refuse to take delivery in individual cases.

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Keywords: the right of rejection, raising the defense of returning the object, curable defect, in-curable defect, performance theory, warranty theory, good faith principle