

did you buy a 'defective' pet?

by MS GOH XIN YING

Introduction

When you first hear the word 'lemon', what is the first thought that comes into your mind? Do you think of scenic beaches and sipping a cup of refreshing lemonade under the shade of a palm tree? Or do you flashback to your childhood where you wrote secret messages with your friends by using lemon juice as 'ink'? Or perhaps you remember passing by a man on the street complaining on his mobile phone that the new car he bought was a lemon? "

There are three main definitions of a 'lemon' in the dictionary.

1. A yellow oval citrus fruit with a sour taste: *'please garnish this juice with a slice of lemon.'*
2. A yellow colour: *'I would like to buy that lemon coloured shirt.'*
3. A product that is defective or does not work the way it should: *'our new car is a lemon.'*

The Lemon Law was adapted from the third definition, which states that defective products are called 'lemons'.

What is the Lemon Law?

The Lemon Law came into effect on 1st September 2012. It is a consumer protection law that provides remedies against defective goods (colloquially known as 'lemons'), which fail to conform to the contract or are not

of satisfactory quality or performance standards at the time of delivery. If a defect is found within six months of delivery, it is assumed that the defect existed at the time of delivery unless the business can prove otherwise.

The Law has a two-stage recourse framework. Firstly, consumers can ask the business to repair or replace the defective product. Secondly, consumers may keep the defective good and ask for a reduction in price or return the defective good for a refund if the business was not able to provide the repair or replacement within a reasonable time or without significant inconvenience to the consumer, or repair or replacement by the business is not possible or will incur a very high cost.

The Lemon Law covers all general consumer goods purchased in Singapore, which includes second-hand goods, discounted goods, perishable goods and pets. It does not apply to services, contracts of hire (e.g. rental goods) and sale of property.

Before the enactment of the Lemon Law, consumers had to rely on the Sale of Goods Act to settle disputes involving defective goods. Under the Sale of Goods Act, an item should be of good quality and if bought for a particular purpose, it must be fit for that purpose. However, the limitations of the Sale of Goods Act necessitated the need

for more comprehensive provisions under the Lemon Law, such as adding repair and replacement as recourse for consumers.

How are pets covered under the Lemon Law?

Firstly, the Lemon Law covers any type of pets regulated under the Singapore Law. This includes dogs, cats, birds, fishes, terrapins and other small mammals. According to the Lemon Law, consumers can seek recourse if their pet is deemed defective.

For example, if the pet falls ill within six months with an illness which was present before the sale or does not conform to contract (i.e. the consumer requested to buy a purebred dog but later found out that the dog sold was a crossbreed), consumers can request for a replacement, a discount or a refund.

With the new Lemon Law in place, consumers can easily request for remedies under the provisions of the Law if they find out that they have bought a defective pet.

Alternatively, consumers can file a claim at the Small Claims Tribunals, which places the burden on the consumer to prove that the seller was already aware that the pet did not conform to the terms of the contract before the sale. The Court hears claims of up to \$10,000 or \$20,000 (with the agreement of both parties) within one year from the date on which the cause of action accrued.

When is a pet considered to be 'defective'?

A defective pet could occur when the pet originally had an illness or was injured during the time of delivery and this fault was not pointed out to the consumer. Under the Agri-Food & Veterinary Authority of Singapore's existing licensing conditions for pet retailers, all animals

displayed for sale must be healthy. Sick, diseased and injured animals have to be removed from display and certified to be fully recovered before they can be displayed for sale again. They must also be vaccinated properly at the point of sale.

Alternatively, a pet can be considered as defective if it does not conform to contract (i.e. the consumer requested to buy a male hamster but later found out that the hamster was female after it gave birth).

Animals are complicated as they are living things. Therefore, the law does not specifically define what constitutes a defect, only that it should conform to the sale contract. This provides flexibility for both the retailer and the consumer to work out a mutually acceptable agreement in the event of a dispute. For example, if the pet was ill, the retailer could compromise by paying for the pet's medical fees instead of a full refund or replacement, which could potentially cost the retailer a larger sum of money.

Exceptions to the Lemon Law

Retailers cannot deny the consumer his rights to remedies under the Lemon Law by saying that no refund or replacement will be given under any circumstances or refusing responsibility of a pet that was already ill before the sale.

However, if the retailer can prove that the illness developed only after the consumer had brought the pet home, the consumer will not be entitled to a remedy. Consumers are also not entitled to a remedy if they had caused the fault in the first place, such as neglecting the pet or not taking enough precautions to prevent the pet from falling ill. Lastly, remedies are not available if the consumers knew about the defect before they bought the pet or if they had simply changed their mind and no longer want the pet.

Consumers who are unable to resolve their dispute with the retailer on their own can approach the Consumers Association of Singapore (CASE) for assistance or file a claim at the Small Claims Tribunals.

CASE Involvement

Case Study #1

The consumer purchased a dog for \$2,900 and brought the dog home two days later. Approximately two weeks later, the dog

fainted and the consumer brought the dog to a vet. The vet found out that the dog had loose kneecaps, which were hereditary. In addition, the dog also suffered from Grade 3 heart murmur. The consumer brought the dog back to the vendor. However, the vendor took the dog to another vet and claimed that the dog was fine. The consumer was dissatisfied and requested for a full refund.

CASE negotiated with the company and both parties eventually agreed to a partial refund of \$1,450.

Case Study #2

The consumer purchased two guinea pigs from a pet shop for \$190 and collected the guinea pigs three days later. However, one of the guinea pigs passed away within two weeks. The consumer contacted the shop and was referred to a vet. The vet investigated and said that the guinea pig had suffered from respiratory illness. However, the shop claimed that it was healthy at the point of collection. The consumer was also not able to detect any problems since the shop had advised the consumer to desist from touching the guinea pigs during the first seven days to minimise stress. The consumer was dissatisfied and requested for a refund of \$95.

CASE negotiated with the company and both parties eventually agreed that the pet shop would compensate the consumer with a \$40 gift voucher.

Case Study #3

The consumer purchased two chinchillas from the pet shop at \$1,178. A few months later, the consumer purchased two more chinchillas at \$375 and \$321 respectively from the same pet shop. The consumer specifically requested for male chinchillas as he did not want them to breed. All the chinchillas were certified by the vet to be males as indicated in the contract. However, several months later, one of the chinchillas gave birth to two babies. The pet shop proposed that the consumer could return the female chinchilla and her two babies, but the consumer disagreed. He requested for vouchers worth \$2,000 as compensation as he had two more chinchillas to take care of.

CASE negotiated with the company and both parties eventually agreed that the pet shop would provide vouchers worth \$400 to the consumer as compensation.

Tips for Consumers

- Know the Lemon Law. Consumers should read up on the Lemon Law and understand the provisions of the Law, such as the two-stage recourse framework.
- Do research on the pet and the pet shop. Consumers should find out more about the pets that they are planning to purchase to avoid being overcharged. They should ensure that the pet is healthy and in good condition before they buy it. They should also check on the reputation of the pet shop or breeder and only patronise responsible shops or breeders with good reputation in their dealings.
- Know the regulations. Consumers can check out the Agri-Food and Veterinary Authority's website to find out more about the regulations governing pet ownership in Singapore. Tips on proper care of pets are also available on <http://www.ava.gov.sg/AnimalsPetSector/ResponsiblePetOwnership/index.htm>.
- Verbal agreements should be committed in writing for ease of dispute resolution. Consumers should also request for receipts or proof of transactions.
- Know the method of dispute resolution. Consumers with unresolved disputes can seek approach CASE for assistance or file a claim at the Small Claims Tribunals.

In Conclusion

The Lemon Law not only protects consumers, but will also encourage pet shops and breeders to pay more attention to the health and condition of the pets that they sell. We would like to urge consumers to remember that knowledge is protection. Do remember to read up on the Lemon Law before you welcome a new pet into your home. You will be happy you did.

