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ABDUL MAJID

Monash University Malaysia , Malaysia

SRI YOGAMALAR

Monash University Malaysia, Malaysia

SANDRA HO

The Hong Kong Polytechnic University, Hong Kong

SHANTHY RACHAGAN

Monash University Malaysia, Malaysia

THE SALE OF GOODS ACT 1893 (UK) STANDS TALL IN HONG KONG, INDIA AND MALAYSIA

Abstract:

When UK's Sale of Goods Act 1893 ("the UK Act") was passed, the United Kingdom was a flourishing colonial power having dominion over, inter alia, Hong Kong, India and Malaysia. This explains the adoption, with minor modifications, of the UK Act in Hong Kong (as the Sale of Goods Ordinance 1896 ("SOGO")), in India (as the Sale of Goods Act, 1930 ("the Indian Act")) and in Malaysia (as the Sale of Goods Enactment 1932 (No. 1 of 1932) ("the Enactment")). The Indian Act was mainly based on the provisions of the UK Act, modified in the light of subsequent judicial decisions in England and India. Thereafter, the Indian Act has neither been subjected to major review nor amended to incorporate changes in its UK counterparts. While Hong Kong was a British colony (until 1 July 1997), all changes in the UK sale of goods legislation were ultimately incorporated into SOGO. From 1896-1997, SOGO was amended 12 times to keep pace with changes in the UK Act. In Britain, the Act was repealed and replaced by the Sale of Goods Act 1979 ("the 1979 Act"). Hong Kong, however, did not follow suit but retained SOGO and amended it to follow the 1979 Act. Malaya gained independence from the British in 1957 and became the Federation of Malaysia in 1963. The Enactment has since been re-intituled twice. First, it was retitled, Sale of Goods (Malay States) Ordinance 1957 (No. 1 of 1957) and in 1989, it became the Sale of Goods Act 1957 ("SOGA"). Save for its re-intitulement, there has been no amendment of any significance. Malaysia has seen fit not to be guided by local judicial pronouncements or developments in the law of the sale of goods in other common law jurisdictions. SOGA remains, as a result, an ossified version of the UK Act.

Keywords:

Sale of goods, legislative history, United Kingdom, Hong Kong, India, Malaysia

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