

THE LEGAL RIGHTS, OBLIGATIONS AND LIABILITIES OF A  
HIRER UNDER A HIRE PURCHASE AGREEMENT AS ENFORCED  
BY THE MINISTRY OF TRADE AND INDUSTRIES, MALAYSIA.

BY

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PREFACE

Hire Purchase is quite common to us, the consumers, because at one time or another, we may enter into hire purchase transaction to procure certain goods which we are unable to pay in cash . In so doing, we may find ourselves subjected to various charges and legal actions by the owner of the goods without really understanding the principle of the transaction. Hire purchase dealing is a legal contract and it involves some principles of contract law which the consumers may not be familiar with.

The aim of the study therefore is to provide deeper insight into the Hire Purchase Act, 1967; the procedures on Hire Purchase, the rights and obligations of hirers and owners as reinforced by the Ministry of Trade and Industries.

It is hoped that with the study on the criminal provisions of the Act and the proposals made, the consumers are made aware of their rights and obligations under a hire purchase agreement. With this realisation and the knowledge accrued from it, the unscrupulous practices by owners and mala fide hirers alike can be curbed.

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CHAPTER THREETHE HIRE PURCHASE AGREEMENT.

" Hire Purchase Agreement " includes a letting of goods with an option to purchase and an agreement for the purchase of goods by instalments (whether the agreement describes the instalments as rent or hire or otherwise), but does not include any agreement -

- a) whether the property in the goods comprised therein passes at the time of the agreement or upon or at any time before delivery of the goods; or
- b) under which the person by whom the goods are being hired or purchased is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods comprised in the agreement<sup>4</sup>.

The Act does not, however, provide a definition of a hire purchase agreement, but it is generally accepted that a hire purchase agreement is one entered into by a hirer and the owner of the goods under which the property in the goods does not pass at the time of the agreement or upon delivery

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4. S.2(1)

of the goods, to the hirer. Ownership of the goods remains in the owner until the hirer has fully paid the price agreed upon in the agreement. In hire purchase transactions, the hirer deals with the dealer who is acting on behalf of a finance company, the owner. In effect the agreement is between the hirer and the finance company.

The hire purchase agreement thus consists of three parts :

a contract of bailment under which the hirer obtain possession of the goods, which remains in the ownership of the owner and is thus enabled to use them before they are fully paid ;  
an option in favour of the hirer entitling him, after payment of the periodical instalments and usually for a nominal consideration, to purchase the goods ; and  
if the hirer exercises the option, a contract of sale making him the owner of the goods already in his possession.

The hire purchase transaction is a complex form of instalment sale which is adopted by commercial practice in order to protect the owner's title to the goods if the instalment buyer, in breach of his undertaking, sells them to a third party acquiring them in goods faith before the payment of all instalments.

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