

Selling a Business: understanding the warranties you give to the buyer

A business owner sold his air conditioning business to a buyer, who obtained the exclusive right to market, distribute and sell air conditioning units. The parties entered into an agreement for sale and purchase.



After the sale transaction had concluded, the buyer sued the seller claiming that the air conditioning units were defective and unfit for purpose because they leaked.

By signing the standard Agreement for Sale and Purchase of

a Business, a seller gives a number of warranties to a buyer. These warranties include that at the time the buyer takes possession of the business, the tangible or physical assets are in good operational order and condition, taking account of their order and condition as at the date of the agreement.

In this case the buyer's claim was successful. The leaky units were not fit for purpose and so were unsaleable to the public. The seller was liable to pay damages to the buyer for breach of warranty.

Sellers should ensure they know what warranties they are giving to the buyer by signing the agreement for sale and purchase and that they are able to provide such warranties. Signing an agreement without understanding its content could result in substantial costs and hassle for sellers later on. Before signing any agreement, sellers should seek legal advice to ensure their position is protected.

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