Business Legal Issues: Case of Holy Guacamole

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Introduction and Background

The assignment provides legal concerns surrounding NLM and Holy Guacamole case. Obligations and rights of Holy Guacamole are discussed under the given scenario. When Max and his supplier Nima signed a sales contract, they agreed on the goods sold, payment methods, price and the delivery terms. However, the beer that was delivered by the supplier from Mexico to Australia was mismanaged. Although the manufacturer of the beers confirmed that the beers were not damaged i.e., the batch of Sante Fe and Carta Blanche beers. However, the pre-shipment report states that the beers were mismanaged. The report of the beers was prepared by an independent inspector and it showed that the beers were stored at a lower temperature. Furthermore, the report also indicated that the cartons of both beers evidenced freezer damage that led many bottles to lose their tops. The initial report by the manufacturer was mismanaged. This report was not delivered at the same time as Bill Lading. Due to the problem in delivery of the report, the products are now owned by Holy Guacamole. The current study, hence, acknowledges the underlying facts and figures to analyse the rights and obligations of the concerned parties.

Sales contract between NLM and Holy Guacamole

In this case, under the special conditions it was mentioned that the company in Australia i.e., NLM will deliver goods that are of good quality, however, in this case, the goods were damaged due to mismanagement of the delivery. However, under the payment terms, it was not mentioned whether there would be any change in the prices if the quality of goods that are delivered is not good. Therefore, Max cannot ask for a change in prices citing the less payment he is receiving from his customers due to bad delivery of the products due to the terms and conditions mentioned in the sales contract between the two parties. It was also mentioned in the sales terms that the buyer i.e., Max cannot reject the goods if they are delivered 8% less or more than the amount that was required. However, in case of fundamental breach, Max will be allowed to pay for the beers an amount that is one third of the original amount decided by the two parties. The poor packaging of beers has led to change in the quality of beers and more than half of the shipment has poor quality beers. However, Holy Guacamole is obliged to pay for the one third price of the goods under Article 51 of United Nations Convention on Contracts for the International Sale of Goods (United Nations Commission on International Trade Law, 1989).

Obligations of Holy Guacamole

The sales contract between NLM and Holy Guacamole is bind by United Nations Convention on contracts for international sales of goods 1980. It was also mentioned in the sales contract that if the dispute between the two parties stays unsettled for 15 days, then the parties are allowed to solve the dispute through arbitration under the UNCITRAL model arbitration law. It was the legal obligation of Holy Guacamole to inform NML about the poor-quality beers that they received within the span of three days. Max was successful in fulfilling this obligation as he informed his supplier about the issue within three working days. However, the dispute stays unsettled for more than 15 days. This implies that it is now a right of Holy Guacamole to solve the dispute through arbitration as mentioned in the sales contract (Bell, 2018).

The UNCITRAL Conciliation Rules (1980) offer a thorough set of procedural guidelines on which NLM and Holy Guacamole may agree for the conduct of conciliation proceedings arising out of their dispute over the poor quality of the beers supplied by NLM. As per the Rules, the Holy Guacamole and NLM can arbitrate by, including the model conciliation clause, the definition of when conciliation is regarded to have started and ended, and procedural issues pertaining to the selection and function of conciliators as well as the general conduct of proceedings. The Rules mentioned in United Nations Convention on Contracts for the International Sale of Goods model arbitration law (United Nations Commission on International Trade Law, 1989) also set limits on the ability of NLM as well as Holy Guacamole to pursue judicial or arbitral actions while the conciliation is ongoing and handle concerns like confidentiality and the admissibility of evidence in other proceedings. However, the conciliation period mentioned in the sales contract between NLM and Holy Guacamole is 15 days so Holy Guacamole can opt for CISG as it becomes a fundamental breach that needs to be resolved through arbitration (Bantekas et. Al., 2020).

Since the contract is an international contract as it involves Australia and Mexico, therefore, the sales contract between NLM and Holy Guacamole raises ‘conflicts’ of domestic law. Mexican law is different from laws in other countries. However, the sales contract mentions that the parties will solve a dispute through arbitration under Mexican law instead of international law. Under Article 38-39 of CISG, the buyer i.e., Max was responsible for informing the manufacturer about the damaged goods within a short period of time and Holy Guacamole successfully fulfilled this obligation (Gillette & Walt, 2016).

Rights of Holy Guacamole

Since Holy Guacamole suffered from monetary losses due to poor quality of beers supplied by NLM, and the dispute has surpassed the sales contract limit of fifteen days to solve the dispute, it is a fundamental breach of the sales contract. Holy Guacamole can opt for corrective remedies if Nima continues not to respond to Max. By applying corrective remedies, under Article 50 of CISG (United Nations Convention on Contracts for the International Sale of Goods), Nima can reduce the price of the damaged beers by going against the payment terms mentioned in the sales contract between NLM and Holy Guacamole. Similarly, another corrective remedy to deal with the dispute between the two parties is that under Article 46 and Article 63 of United Nations Convention on Contracts for the International Sale of Goods, Holy Guacamole can provide NLM with more time. Moreover, under Article 71 of CISG, Holy Guacamole can also suspend the contract if NLM continues not to respond (Gillette & Walt, 2016).

Similarly, because Holy Guacamole suffered due to bad quality of beers i.e., their customers paid them one third of the original price, under Article 46 (2), Holy Guacamole can also opt for additional damages that NLM caused the company (Felemegas, 2013).

According to Graffi (2003), monetary loss plays an important role in determining how relevant is the breach. Unlike the theoretical understanding of legal issues, case law offers little consideration to foreseeability and sales contract expectations. Rather than the statutory interpretation, evidence of substantial detriment i.e., the loss Max suffered due to bad quality of the beers supplied, plays a more vital role under the general definition of Article 25. Therefore, Max can present the proof of loss that he suffered due to poor management of the beers before the beers reached him (Graffi, 2003).

Conclusion

Holy Guacamole has the right to apply corrective remedies in this case since NLM failed to respond and settled the dispute within fifteen days as mentioned in the sales contract between the two parties. Arbitration by applying the rules of the United Nations Convention on Contracts for the International Sale of Goods will provide a number of options to Holy Guacamole in order to settle this dispute. For example, Holy Guacamole can terminate the contract or ask for additional damages. Since poor supply leads to losses for seller, the company has the option to pay one third of the price to the manufacturer against the payment rules mentioned in the sales contract due to rules of United Nations Convention on Contracts for the International Sale of Goods.

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