649959 - What is the ruling on the seller specifying a time limit within which he is liable for any defect, and within that time the product may be returned?

the question

I am a vendor selling small household appliances, such as mixers and kibbeh-making machines. Another vendor bought a number of items from me, and I told him to try my products, then if he tells me that there is any problem within one week, I will take the item back, but after that period I am not responsible and I cannot take back any item. I told him that more than once. The vendor got in touch with me 40 days later and said that there is an item with which there is a problem, but I refused to take it back.

Is there any sin on me?

Summary of answer

If you told the purchaser that you would not be responsible for any defects that were discovered after one week, and that you would not agree to take back the item after that period, then you are not required to do anything after that period, provided that when you sold the item you were not aware of any defect in it. This comes under the heading of selling with the stipulation that the seller is not liable for any defects, which is a valid stipulation provided that the seller is unaware of the defect.

Detailed answer

Praise be to Allah.

There is nothing wrong with a vendor specifying a time limit on liability for defects, meaning that if the purchaser comes after this time has expired, the seller is not liable for the defect. This comes

under the heading of selling with the stipulation that the seller is not liable for any defects.

And it is stipulated that the seller should not be aware of any defects.

There are five scholarly views regarding the stipulation that the seller is not liable for defects.

1.. It is valid to stipulate that the seller is not liable for any defect, even if the seller is aware of it, so the option for the purchaser to return the item is not available at all. This is the view of the Hanafis.

Ibn al-Humam said: Selling with the stipulation that the seller is not liable for any defect is valid with regard to animals and other items. By stipulating that, the seller becomes not liable for any defect that was present at the time of sale, whether it was known to him or not.

End quote from *Fat-h al-Qadir*, 6/396.

2.. It is valid to stipulate that the seller is not liable for any defect in the case of slaves in particular. This is the view of the Malikis.

'Ulaysh al-Maliki said: If the seller stipulates to the purchaser at the time of sale that the seller is not obliged to take back any item because of pre-existing defects, then the transaction is valid, but this stipulation is invalid unless the seller stipulates that he is not liable for defects of which he is not aware in slaves in particular. He has the right to make that stipulation provided that the slave was with him for a long time.

End quote *from Fat-h al-'Ali al-Malik*, 1/360.

3.. It is valid to stipulate that the seller is not liable for any defect in the case of animals in particular. This is the view of the Shafa`is.

Zakariya al-Ansari, who is a Shafa`i, said in *Asna al-Matalib* (2/63): Once a man sells an animal or something else with the stipulation that he is not liable for any defect in it, then he is not liable for any hidden defect in animals in particular that was present at the time of the transaction, but the seller was not aware of it, but he is liable for any defect other than what is mentioned. End quote.

4.. It is not valid to stipulate that the seller is not liable for defects at all in all cases. This is the view of the Hanbalis; the Malikis agreed with them except in the case of slaves, and the Shafa'is agreed with them except in the case of animals.

Al-Hajawi said in *Al-Iqna`* (2/82): If a man sells an item and stipulates that he is not liable for any defect, or for a particular defect if it is already present, or he stipulates that he is not liable for pregnancy or for anything that happens after drawing up the contract and before delivery, then that stipulation is invalid and he is liable for it, whether the defect was obvious but the purchaser did not notice it, or it was hidden. End quote.

5.. It is valid for the seller to stipulate that he is not liable for any defect if the seller is not aware of it. This was narrated from Ahmad and is the view favoured by Shaykh al-Islam Ibn Taymiyah and Ibn al-Qayyim.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: The correct view regarding selling with the stipulation that the seller is not liable for any defect, which was the view of the Sahabah and the view of the majority of scholars, is that if the seller was not aware of that defect, the purchaser has no right to return the item.

End quote from *Al-Ikhtiyarat*, p. 124.

See: *I`lam al-Muwaqqi`in*, 3/393; *Al-Mughni*, 4/135; *Al-Mawsu`at al-Fiqhiyyah*, 20/124.

Shaykh Muhammad ibn `Uthaymin (may Allah have mercy on him) said: The correct view regarding this matter is that which was favoured by Shaykh al-Islam Ibn Taymiyah,

which is: if the seller was aware of the defect, then the purchaser has the right to return it in all circumstances, whether that was stipulated at the time of the sale, or before or after the sale.

If the seller was not aware of the defect, then the stipulation that he is not liable is valid, whether he stipulated that before the sale or at the time of sale or after the sale.

The view of Shaykh al-Islam is the correct view, and it is what was narrated from the Sahabah

(may Allah be pleased with them). It is what is appropriate to people's dealings, because if the seller was aware of the defect, then he is a cheat and is dishonest, so he should be dealt with by means of the opposite of what he wanted to achieve. This is in contrast to the case if he is not aware of it, such as if he acquired the car recently and was not aware of any defects in it, and he sold it and stipulated that he was not liable for any defects; this stipulation is valid. End quote from *Ash-Sharh al-Mumti`*, 8/256, 257.

The soundness of this view is supported by the report of Salim ibn `Abdillah, according to which `Abdullah ibn `Umar sold a slave of his for eight hundred dirhams with the stipulation that he was not liable for any defects. The one who bought the slave said to `Abdullah ibn `Umar: This slave has a ailment that you did not inform me about. They referred the dispute to `Uthman ibn `Affan (may Allah be pleased with him), and `Uthman ibn `Affan ruled against `Abdullah ibn `Umar, saying that he should swear an oath that when he sold the slave he had no ailment of which he was aware. 'Abdullah refused to swear the oath and took back the slave, who recovered while he was with him. After that, 'Abdullah sold him for fifteen hundred dirhams. Narrated by Malik in *Al-Muwatta'* (1274); and by al-Bayhaqi in *Al-Kubra* (5/328) – he said: This is the soundest report regarding this matter.

If it is permissible to stipulate that the seller is not liable for a defect at the time of drawing up the account, then it is more appropriate that it should be permissible to stipulate that the seller is not liable for any defect for a specific length of time after the sale, such as if the seller says: I am not liable for any defects you find after a week, or nothing is required of me regarding any defect that you find after one week has passed. There is nothing wrong with that on condition that the seller is not aware of the defect.

Based on that, if you told the purchaser that you would not be responsible for any defects that were discovered after one week, and that you would not agree to take back the item after that period, then you are not required to do anything after that period, provided that when you sold the item you were not aware of any defect in it.

And Allah knows best.