

Garage Sales: Legal Rights, Wrongs & Remedies

5 Vital Tips for Buyers & Sellers

Today's national GARAGE SALE TRAIL highlights the need for more Australians to be better informed about important legal issues facing buyers and sellers.

Key questions and answers for buyers and sellers to consider.

- **As a buyer at a garage sale, am I covered by consumer protection laws?**
- **What if the item I buy turns out to be stolen?**
- **What if I buy an artwork for a small price and it turns out to be a valuable masterpiece?**
- **What if I have a garage sale at my house and a buyer sustains an injury on my property?**
- **What are my rights if the garage sale is run by a business?**

The answers below are quotes from Ms Julia Bidstrup, a consumer protection lawyer from the Legal Services Commission of SA.

1. As a buyer at a garage sale, am I covered by consumer protection laws?

Consumers have fewer rights when buying goods at a garage sale (as opposed to purchasing from a retail business).

For instance, if goods from a garage sale are not of acceptable quality or do not match the seller's description, there is no legal recourse against the seller under consumer law.

Bargain-hunters must remember the Latin legal warning *caveat emptor* – which translates as *buyer beware*. This means the buyer is responsible for checking the quality and suitability of goods before a purchase is made. If the buyer has not made those checks before purchasing, they are not entitled to seek a refund from the seller if they later decide the goods are unsuitable.

Be careful when buying products that might pose a danger – such as electrical items, baby goods or car jacks etc. The product isn't worth its bargain price if it is dangerous. If goods purchased at a garage sale do cause damage or injury, seek legal advice quickly.

Consumers do have some protection. If the seller has misrepresented the item being sold, the buyer has the legal right to seek a refund. For instance, a refund could be sought if a seller incorrectly told a buyer that a second-hand mobile phone being sold is not locked to a particular network. In this situation, the seller is at fault because they provided misleading information to induce the buyer to purchase the item.

2. What if the item I buy turns out to be stolen?

In this situation, the *original* owner (from whom the item was allegedly stolen) can legally seek to take the item away from you. Likewise, you are legally entitled to seek a full refund from the individual who “sold” the item to you at the garage sale.

Sometimes people at a garage sale buy a product (e.g. a fridge) which later turns out to be rented from a consumer leasing company. In this situation, the garage sale operator had no legal right to sell the item – and the leasing company is legally entitled to repossess it from the person who “bought” it at the garage sale. Similarly, the “buyer” is legally entitled to go back to the garage sale operator to seek a refund of the purchase price.

3. What if I buy an artwork for a small price & it turns out to be a valuable masterpiece?

In this situation, even if the seller was unaware of the true market value of the item, the new buyer holds full legal ownership of it. It is a case of *seller beware*.

In 2005, the *Sydney Morning Herald* reported how a Cairns woman staged a garage sale in which she tried to get rid of a dusty old painting for \$6. No one purchased it – which is just as well for her. The woman later discovered the picture was by renowned artist Albert Namatjira and was valued at \$25,000. ([Click here to read the SMH story.](#))

In Melbourne last month, according to [this media report](#), a Gallipoli war veteran’s badge was accidentally sold at a garage sale.

4. What if have a garage sale at my house and a buyer sustains an injury on my property?

In 2005 the High Court of Australia heard the case of an SA woman who tripped over and broke her foot when she was at a garage sale. The woman had been awarded damages of \$24,000 by an SA magistrate. However, [the High Court overturned the decision](#). The High Court found that, while the homeowner does owe a duty of care to anyone coming onto their land, the standard of care was not breached in this case.

The law generally expects that, if you are staging a garage sale, you will take steps to ensure your property is safe for buyers. For instance, secure heavy items that could fall and ensure tables can support the weight of your wares.

Most home insurance policies include public liability provisions which cover injuries sustained by visitors who come on to a property, but check with your insurer first.

5. What are my rights if the “garage sale” is run by a business?

Be aware that commercial traders sometimes stage “garage” sales. If the sale is run by a business, consumer law guarantees DO apply. The main guarantee is that the goods must be of acceptable quality; for instance, they must be safe, durable and of reasonable appearance etc.

Signs that the seller is perhaps a commercial trader:

- the sale is held on business premises or at a market;
- there is more than one item of the same type;
- goods might be new.

Julia Bidstrup is available for interview on Friday 23/10. This story is embargoed until Saturday 24/10.

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