



Civil Resolution Tribunal

Date Issued: March 18, 2021

File: SC-2020-009035

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jassar Construction Ltd. v. Basra*, 2021 BCCRT 301

B E T W E E N :

JASSAR CONSTRUCTION LTD.

APPLICANT

A N D :

JITINDER SINGH BASRA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about GST allegedly owing on a sale of a used 2016 Ford F150. The applicant, Jassar Construction Ltd. (Jassar), says the respondent, Jitinder Singh Basra, bought a truck from it on June 8, 2020 that had a \$33,600 purchase price including GST and PST, but only paid \$32,100. Jassar claims \$1,500, the GST allegedly owing.

2. The parties agree the truck's purchase price was \$30,000 "plus taxes". However, Mr. Basra says the insurance agent who processed the sale advised only 7% PST applied. So, Mr. Basra says he only needed to pay PST. Mr. Basra also says it was Jassar's responsibility as the seller to collect GST at the time of sale, and not after the purchase was completed.
3. Jassar is represented by Mr. Singh and Mr. Basra is self-represented.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
5. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am able to assess and weigh the documentary evidence and submissions before me.
6. Section 42 of the CRTA says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUE

8. The issue in this dispute is whether Jassar is now entitled to payment of \$1,500 in GST from Mr. Basra, for the truck Jassar sold to Mr. Basra.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant Jassar must prove its claims on a balance of probabilities. Apart from its submissions, Jassar submitted no evidence, despite having the opportunity to do so. I have read all the evidence and submissions before me, but refer only to what I find relevant to provide context for my decision.
10. As noted above, on June 8, 2020 the parties agreed that Mr. Basra would buy Jassar's truck for "\$30,000 and taxes". There is no advertisement for the vehicle in evidence, and I do not know how the parties came to their arrangement. That same day, the parties attended together at an insurance agent's office and filled out the required transfer forms. It is undisputed Mr. Basra paid the required PST on the \$30,000 at the insurance agent's office. Later on June 8, after Mr. Basra received title to the truck, he paid Jassar \$30,000 by cheque. The parties had no other purchase agreement.
11. On July 9, 2020, a month after the truck's sale, Jassar contacted Mr. Basra about paying GST on the truck. As noted above, the issue in this dispute is whether the parties' purchase agreement required Mr. Basra to pay GST, and whether Mr. Basra is now required to pay for it.
12. Jassar says there was a "miscommunication" with the auto insurance agent and that Mr. Basra knew this and verbally agreed to pay the claimed \$1,500, but now refuses to do so. Jassar does not explain how the alleged miscommunication resulted in Mr. Singh allegedly paying the GST and Mr. Basra agreeing on the spot to reimburse Mr. Singh. Jassar does not explain why if the "mistake" it says occurred was known at the time of sale on June 8, that it did not require Mr. Basra to pay the GST before giving title of the truck to him.

13. In contrast, Mr. Basra denies any agreement between himself and Jassar or Mr. Singh about the payment of GST. Mr. Basra says on the June 8, 2020 sale date, on the insurance agent's inquiry, Mr. Singh offered to pay GST and gave his GST number. Mr. Basra says then the GST was processed under Jassar's name, and so the insurance agent told Mr. Basra he would not have to pay the GST.
14. In its reply submissions, Jassar says that in front of the insurance agent, Mr. Basra asked Mr. Singh to pay the GST and that Mr. Basra agreed to reimburse Mr. Singh for it afterwards. Jassar submits it is Mr. Basra's responsibility as purchaser to pay the GST on purchases. Yet as noted, the only evidence I have is that Mr. Basra paid Jassar for the truck with a \$30,000 cheque, after Jassar gave title of the truck to Mr. Basra. Jassar does not explain why it simply did not require the cheque to be for \$30,000 plus GST.
15. I find the agreed purchase agreement for \$30,000 "and taxes" means that Mr. Basra agreed to pay for all taxes applicable to him as purchaser in the sale. If the sale in fact attracted GST, then Mr. Basra is responsible to pay it. As set out in *Dworak v. Kimpton*, 1996 CanLII 3451 (BC SC), GST is the responsibility of a buyer of taxable property, even though the seller collects the GST on the government's behalf. In *Dworak*, the court found section 224 of the *Excise Tax Act* gave the seller the right to be indemnified for the GST the seller was required to remit.
16. The property transfer tax form shows the insurance agent collected 7% PST, which as noted Mr. Basra undisputedly paid. Elsewhere on the form it lists the seller Jassar's GST number, and there is a line through the box for "HST payable". I find I cannot conclude from the face of this tax form that Mr. Basra is responsible for GST.
17. While Jassar is a GST registrant, there is no evidence before me that Jassar is a dealer in selling used vehicles. Based on the limited evidence before me, the truck's sale to Mr. Basra was a private sale. I have no evidence before me that GST applies to private vehicle sales. In other words, I have no evidence before me that the truck's sale was a taxable supply for GST purposes. More significantly, there is no evidence before me that Jassar was in fact required to collect GST from Mr. Basra or that

Jassar remitted GST to the government on the truck's sale. For example, there is no documentation showing Jassar paid the GST to the government and no correspondence from the government showing GST was owing.

18. Next, I find there is insufficient evidence that Mr. Basra ever agreed to pay the \$1,500 in GST. While Jassar says the insurance agent was a witness to Mr. Basra's agreement, there is no statement from the agent in evidence. I am left with the parties' conflicting verbal accounts about what Mr. Basra said about payment of GST, and thus an evidentiary tie. Given Jassar bears the burden of proof I find I cannot conclude Mr. Basra ever agreed to pay the \$1,500. The fact that Jassar did not pursue the \$1,500 until a month after the sale supports the conclusion that Mr. Basra did not agree on the sale date to pay the \$1,500.
19. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Jassar was unsuccessful and Mr. Basra did not pay CRT fees, so I make no order about them.

ORDER

20. I order Jassar's claims and this dispute dismissed.

Shelley Lopez, Vice Chair