



Civil Resolution Tribunal

Date Issued: October 28, 2022

File: SC-2022-002091

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Petruta v. Dong*, 2022 BCCRT 1181

BETWEEN:

TEODOR NICOLAE PETRUTA

APPLICANT

AND:

TIANKUI DONG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about a deposit paid for a used boat. In March 2022, the applicant, Teodor Nicolae Petruta, agreed to buy the boat from the respondent, Tiankui Dong.

Mr. Petruta says he paid Mr. Dong a \$1,000 “advance” or “down-payment”, with the remaining \$11,800 to be paid after Mr. Dong had the boat professionally inspected. Mr. Petruta says a mechanic told him the engine was a “bad one” because there were no spare parts and the engine’s manufacturer went bankrupt. So, Mr. Petruta decided not to buy the boat and asked for a refund of the \$1,000 but Mr. Dong refused. Mr. Petruta alleges Mr. Dong intentionally failed to disclose the engine type and claims the \$1,000.

2. Mr. Dong says Mr. Petruta bought the boat and then breached the parties’ agreement by failing to complete the boat purchase. Mr. Dong says the parties agreed the \$1,000 was a deposit that would be refunded if on inspection there was “any major issue” with the engine or the hull. Mr. Dong says the engine runs fine and so he says he is entitled to retain the deposit.
3. The parties are each 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). CRTA section 2 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. CRTA section 39 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 properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

6. CRTA section 42 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.
8. I note Mr. Dong submitted 2 evidence items late. One was a duplicate of the parties' agreement I discuss below. Another is a photo of the boat, which I find irrelevant to this dispute and so I do not allow it. Nothing turns on that photo, given that I dismiss Mr. Petruta's claim below for other reasons.

ISSUES

9. The issues in this dispute are:
 - a. Did Mr. Dong misrepresent the boat's engine in advertising the boat?
 - b. Does the parties' agreement require Mr. Dong to refund the \$1,000, including because the boat's engine does not have spare parts or because its manufacturer is bankrupt?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Petruta must prove his claim on a balance of probabilities (meaning "more likely than not"). I have read the parties' submitted documentary evidence and arguments but refer only to what I find relevant to provide context for my decision.
11. The background facts are not disputed. The parties had no formal written agreement. However, in evidence is a handwritten acknowledgement signed by both parties on March 19, 2022. In it, Mr. Dong acknowledges receiving \$1,000 from

Mr. Petruta as a “deposit” to buy Mr. Dong’s 1995 boat for \$12,800. The document further says Mr. Petruta will have the boat inspected and will pay the \$11,800 balance within 3 days “if no major issue with engine and hull” and that Mr. Dong will refund the \$1,000 deposit if there is a “major issue” with the “engine and hull”. I find this document comprises the parties’ agreement for the boat’s purchase and sale.

12. First, I find the fact that the boat engine’s manufacturer has gone bankrupt is irrelevant to the parties’ contract for the boat’s purchase and sale. There is no evidence Mr. Dong made any specific representations about the boat’s engine as part of the boat sale. There is also no evidence that Mr. Petruta made any enquiries about the boat engine manufacturer before the \$1,000 was paid.
13. To the extent Mr. Petruta argues it, I find the engine manufacturer’s bankruptcy status is not a “major issue” with the engine. I find the phrase “major issue” in the parties’ agreement refers to mechanical issues. There undisputedly is no mechanical issue with the engine.
14. Next, Mr. Petruta argues the engine did not have spare parts. I also find this irrelevant, since the parties’ agreement did not say the boat was being sold with spare parts for the engine. I find the fact that Mr. Petruta may have future difficulties replacing engine parts does not mean the engine as sold had a “major issue”.
15. Mr. Petruta also argues Mr. Dong intentionally withheld the engine manufacturer’s name from the Facebook advertisement for the boat. First, the Facebook ad is not in evidence. Second, and in any event, I find no evidence to support a conclusion Mr. Dong intentionally hid the engine’s manufacturer. There is no evidence that the engine manufacturer’s name was not visible had Mr. Petruta chosen to inspect the boat. Further, there is no evidence Mr. Petruta ever asked for the identity of the engine manufacturer.
16. Finally, as noted, Mr. Petruta argues that a mechanic told him the boat engine “has a lot of problems”. Yet, there is no witness statement in evidence from that mechanic. Parties are told during the CRT’s process to submit all relevant evidence,

including witness statements. In any event, the agreement contemplates a refund if an “inspection” revealed a “major issue”. Here, Mr. Petruta says he spoke to a mechanic but there is no evidence the engine was ever inspected. Further, based on Mr. Petruta’s own submissions, the engine issue is not that it has any current mechanical problems but because its manufacturer is bankrupt and there are no spare parts readily available. I have rejected this argument above.

17. As noted, the parties’ agreement expressly said that the \$1,000 would be refunded only if there was a “major issue” with the engine and hull. There is undisputedly no issue with the hull and I have found above there was no “major issue” with the engine, even if it had been inspected. Given the agreed terms, I find Mr. Petruta is not entitled to a refund of the \$1,000 deposit.
18. Under section 49 of the CRTA and the CRT’s rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As Mr. Petruta was unsuccessful, I find he is not entitled to reimbursement of paid CRT fees. Mr. Dong did not pay CRT fees and no dispute-related expenses are claimed.

ORDER

19. I dismiss Mr. Petruta’s claim and this dispute.

Shelley Lopez, Vice Chair