



Civil Resolution Tribunal

Date Issued: February 7, 2023

File: SC-2022-004676

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Tse v. Second Look Autobody (1992) Ltd.*, 2023 BCCRT 111

BETWEEN:

KA YAN GRACE TSE

APPLICANT

AND:

SECOND LOOK AUTOBODY (1992) LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a used car sale. The applicant, Ka Yan Grace Tse, purchased a used 2015 Mazda6 from the respondent, Second Look Autobody (1992) Ltd. The applicant says the respondent misrepresented the vehicle's accident history, making the vehicle less valuable on resale. The applicant claims \$2,640 as the alleged difference in value.

2. The respondent says it advised the applicant about the car's history and provided the VIN so the applicant could do their own due diligence. It denies misrepresenting the vehicle's history.
3. The applicant is self-represented. The respondent is represented by a director.

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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that 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. Further, 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. Section 42 of the CRTA says that 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.

ISSUES

8. The issues in this dispute are whether the respondent misrepresented the vehicle's accident history and, if so, to what extent the applicant is entitled to the claimed \$2,640 in alleged reduced vehicle value.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove their claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.
10. Sometime in early March 2020, the respondent listed the subject vehicle for sale. The respondent says it is an autobody shop and is not in the business of buying or selling cars, but just happened to be selling this used car, which I accept as it is not disputed. The respondent provided the applicant with the vehicle's VIN number and advised them to contact the Insurance Corporation of British Columbia (ICBC) for a "vehicle history", which the applicant did.
11. ICBC provided a "Vehicle claims history report" dated March 13, 2020 (2020 report). The report noted the vehicle had been in a collision on February 1, 2018, with the "front" being the primary area of damage. The "amount" and "description" boxes were listed as "NO DETAILS". The 2020 report also noted an October 20, 2017 collision affecting the "left rear corner" that resulted in \$1,220.64 in repairs.
12. Upon selling the car in 2022, the applicant received another ICBC report, dated March 8, 2022 (2022 report). The 2022 report also noted the February 1, 2018 collision, but instead of saying "NO DETAILS", it stated there was \$5,051.29 in repairs to the vehicle's "front center".
13. The applicant says the respondent purposely held back information about the 2018 accident, which the respondent denies. The respondent says it told the applicant about a minor accident to the bumper that it was aware of. The respondent says it

does not know why the 2020 report does not detail the 2018 accident, but says it is not the respondent's fault that ICBC's documentation was incomplete.

14. Here, I find the applicant has not proven the respondent misrepresented the vehicle's accident history. My reasons follow.
15. The principle of "buyer beware" generally applies to private purchases of used vehicles (see: *Cheema v. Mario Motors Ltd.*, 2003 BCPC 416). This means that buyers assume the risk that the purchased vehicle might be either defective or unsuitable to their needs. There is no common law duty for a seller to disclose known defects, but they cannot actively conceal or misrepresent them (see: *Conners v. McMillan*, 2020 BCPC 230 citing *Floorco Flooring Inc. v. Blackwell*, [2014] BCJ No 2632). In short, a buyer is generally responsible for failing to adequately inspect goods before buying them.
16. If a seller misrepresents a used item's condition, the buyer may be entitled to compensation for losses arising from that misrepresentation. A misrepresentation is a false statement of fact made during negotiations or in an advertisement that induces a reasonable person to enter into the contract. The seller must have acted negligently or fraudulently in making the misrepresentation, the buyer must have reasonably relied on the misrepresentation to enter into the contract, and the reliance "must have been detrimental in the sense that damages resulted" (see: *Queen v. Cognos Inc.*, [1993] 1 SCR 87 at paragraph 110).
17. It is undisputed the respondent gave the applicant the VIN and the applicant obtained the 2020 report. Although the 2020 report did not specifically detail the value of the 2018 collision, the collision was noted. I find it was up to the applicant to make further inquiries about the collision, either by contacting ICBC or requesting further documentation on the car, before deciding to purchase it. I find there is simply no evidence the respondent tried to actively conceal or misrepresent the vehicle's accident history.

18. Although the applicant says the respondent should have told them about the vehicle's front impact collision damage, there is no evidence before me the respondent knew of that accident, or owned the vehicle at the time. I also note the applicant elected not to have the vehicle inspected before purchasing it.
19. On balance, I find the applicant has not proven the respondent misrepresented the vehicle's accident history.
20. Although not specifically addressed by the parties, I also considered whether the *Sale of Goods Act* (SGA) applies. Section 18 of the SGA sets out 3 implied warranties: saleability or merchantability (quality), fitness for purpose, and reasonable durability. Given the respondent is undisputedly not in the business of buying and selling cars, only the implied warranty of durability applies to this private used car sale.
21. Section 18(c) says that goods sold must be durable for a reasonable period with normal use, considering the sale's context and surrounding circumstances (see: *Drover v. West Country Auto Sales Inc.*, 2004 BCPC 454). Here, there is no argument that the vehicle was not durable. Given all the above, I dismiss the applicant's claims.
22. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As the applicant was not successful, I dismiss their claim for reimbursement of tribunal fees. The respondent was successful but did not pay tribunal fees or claim dispute-related expenses.

ORDER

23. I dismiss the applicant's claims and this dispute.

Andrea Ritchie, Vice Chair