



Civil Resolution Tribunal

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File: SC-2023-010066

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Decruyenaere v. Sawatsky*, 2024 BCCRT 1009

B E T W E E N :

GILLES DECRUYENAERE

APPLICANT

A N D :

CONNOR SAWATSKY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This dispute is about a used car sale. In 2023 Gilles Decruyenaere purchased a used 2007 Mazda 3 from Connor Sawatsky. Mr. Decruyenaere says the car had mechanical issues rendering it unfit to drive that Mr. Sawatsky failed to disclose before selling it. Mr. Decruyenaere says the total cost of completed and additional

required repairs is \$3,513.01, but he limits his claim to \$2,500, which was the car's purchase price.

2. Mr. Sawatsky says he disclosed all known issues with the car before selling it, and he is not responsible for any repair costs.
3. Both parties are 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.
5. Section 39 of the CRTA says the CRT has discretion to decide the hearing's format, 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 the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. 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 Mr. Decruyenaere is entitled to \$2,500 in repair costs.

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mr. Decruyenaere must prove his claims on a balance of probabilities, which means more likely than not. I have read all the parties' evidence and submissions but refer only to what I find relevant to explain my decision. For the following reasons, I dismiss Mr. Decruyenaere's claims.
10. In the summer of 2023, Mr. Sawatsky listed the car for sale on Facebook Marketplace for \$3,000. The advertisement described the car as having "No problems, no leaks", with minor rust on both sides near the rear wheels. It said the oil had been changed every 5,000 kilometres, and there were 225,391 kilometres on the odometer.
11. Mr. Decruyenaere responded to the advertisement through Facebook Messenger. He asked Mr. Sawatsky "Is the AC good?" and Mr. Sawatsky replied that it "needs a recharge". Mr. Decruyenaere also asked if there were any other issues he should know about apart from the air conditioner. Mr. Sawatsky responded, "Brakes have life but may need to be bled. Front window has a crack...That's about it..."
12. On August 19, 2023, Mr. Decruyenaere test drove the car and decided to buy it without having it inspected by a mechanic. The parties agreed on a \$2,500 purchase price, transferred ownership at an ICBC office that day, and Mr. Decruyenaere drove the car away.
13. Mr. Decruyenaere says he took the car to a mechanic a few days later to have the air conditioner charged and the brakes bled. He says the mechanic determined that the air conditioner compressor and brakes needed replacing. Mr. Decruyenaere says that on September 5, 2023, the car would not start. He says he had it towed to

a mechanic who determined that bad wiring had damaged the battery, which needed replacing.

14. Mr. Decruyenaere says he spent \$1,497.11 to replace the brakes and \$480.94 to replace the wiring and battery. He says the cost to replace the air conditioner compressor is \$1,460.76, and the total of all these repairs is \$3,438.81. As noted above he limits his claim in this dispute to the \$2,500 purchase price.

Is Mr. Decruyenaere entitled to \$2,500 in repair costs?

15. The general rule for used vehicle sales is “buyer beware.” This means that a buyer is not entitled to damages, such as repair costs, just because the vehicle breaks down shortly after the sale. Rather, a buyer who fails to have the vehicle inspected before purchasing, as the applicant failed to do, is subject to the risk that they did not get what they thought they were getting and made a bad bargain.
16. There are several legal exceptions to the “buyer beware” principle, which are fraud, negligent misrepresentation, breach of contract, breach of warranty, or failure to disclose a known latent defect. This means that for Mr. Decruyenaere to be entitled to compensation, he must prove one of these legal exceptions to the “buyer beware” principle. I find Mr. Decruyenaere argues negligent misrepresentation, breach of an implied warranty under the *Sale of Goods Act* (SGA), and failure to disclose a known latent defect. I address each allegation below.

Negligent Misrepresentation

17. Negligent misrepresentation occurs when a seller fails to exercise reasonable care to ensure their representations were accurate and not misleading. The misrepresentation must reasonably induce the purchaser to buy the item.
18. Mr. Decruyenaere says Mr. Sawatsky’s statements about the problems with the air conditioner and brakes led him to decide to buy it. He says he reasonably assumed that a recharge was the only concern with the air conditioner, and that aside from needing to be bled, the brakes were in good condition. He says he believed he

could afford to repair these issues after buying the car. He also says that before buying the car he asked Mr. Sawatsky if he would want to know if a major problem arose with the car after he sold it, and Mr. Sawatsky responded, “Or course! I have a conscience!”. Mr. Decruyenaere says Mr. Sawatsky’s response contributed to his decision to buy the car.

19. Mr. Sawatsky says he regularly drove the car before selling it. He says he disclosed all known issues with the car to Mr. Decruyenaere before selling it, but says he told Mr. Decruyenaere he was not a mechanic. I find this is where Mr. Decruyenaere’s negligent misrepresentation claim fails. Mr. Sawatsky expressly stated that there were problems with the air conditioner and brakes. Although the problems with those parts turned out to be more extensive than what Mr. Sawatsky disclosed, I find it was not reasonable for Mr. Decruyenaere to rely on Mr. Sawatsky’s assessment of what exactly was wrong with those parts since he has no mechanical expertise. I find Mr. Decruyenaere has failed to establish that Mr. Sawatsky negligently misrepresented the issues with the car.

Breach of Warranty

20. Next, I address breach of warranty. Section 18 of the SGA sets out warranties that are implied into contracts in certain circumstances for the sale of goods, which include used vehicles. Section 18(c) of the SGA applies to private sales like this one and says goods will be durable for a reasonable period of normal use, considering the sale’s context and the surrounding circumstances. In *Sugiyama v. Pilsen*, 2006 BCPC 265, the court said the seller of a used vehicle cannot guarantee the vehicle’s future performance, and a buyer must expect problems at some point. The court found the older the vehicle, the more likely that it will break down. For an older vehicle, if it is “roadworthy” at the time of sale, it is likely to be considered reasonably durable, even if it breaks down shortly afterwards.
21. When Mr. Decruyenaere purchased the car, it was 16 years old and had been driven over 225,000 kilometres. The car did not break down until more than 2 weeks after he bought it. Mr. Sawatsky’s uncontested evidence was that immediately

before selling the car he had regularly driven it for over a year without any issues. In the circumstances, I find the car was roadworthy at the time of sale, and so it was reasonably durable. I find Mr. Decruyenaere has failed to prove that Mr. Sawatsky breached the SGA section 18(c).

Failure to Disclose a Latent Defect

22. A latent defect is one that is not obvious and cannot be discovered by a reasonable inspection. A seller who is aware of a latent defect and fails to disclose it or actively conceals it may be liable for damages.
23. Mr. Decruyenaere says Mr. Sawatsky did not disclose the poor condition of the brakes or air conditioner compressor. I disagree. I find Mr. Sawatsky alerted Mr. Decruyenaere to issues with both the brakes and air conditioner before selling the car. Although the issues with both parts turned out to be more extensive than Mr. Sawatsky disclosed, I find there is no evidence he knew the extent of those issues. The evidence also shows that both issues were discovered through a mechanical inspection.
24. Mr. Decruyenaere also says Mr. Sawatsky did not disclose the bad wiring before selling him the car. However, I find there is no evidence Mr. Sawatsky knew about the bad wiring at the time, and the evidence shows that issue was also discovered through a mechanical inspection.
25. For all of these reasons, I find Mr. Decruyenaere has not proven that Mr. Sawatsky failed to disclose a known latent defect with the car.
26. In conclusion, I find Mr. Decruyenaere has failed to establish any of the legal exceptions to the general legal principle of “buyer beware” for used vehicle sales. So, I find he is not entitled to damages, and I dismiss his claim.
27. 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. I see no reason in this case not to follow that general rule. However, neither of the parties paid any CRT fees so I decline to award any.

28. Mr. Sawatsky claims an undisclosed amount in dispute-related expenses for missed work to participate in this dispute. He relies on CRT rule 9.5(5) which says the CRT will not order one party to pay another party for their time spent on the dispute except in extraordinary circumstances. He says there are extraordinary circumstances in this dispute because Mr. Decruyenaere's claims are frivolous. I disagree. Just because Mr. Decruyenaere was unsuccessful in his claim does not make it frivolous. I find there is nothing extraordinary about this dispute, and I dismiss Mr. Sawatsky's claim.

ORDERS

29. I dismiss Mr. Decruyenaere's claims.

30. I dismiss Mr. Sawatsky's claim for dispute-related expenses.

Sarah Orr, Tribunal Member