SPC Guiding Case No. 17: Zhang Li v. Beijing Heli Huatong Automobile Service Co., Ltd. (Sales Contract Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / sales contract / fraud / household automobile

Holding

1. Where a fraud dispute arises from the purchase of an automobile for household living consumption, it may be handled in accordance with the Law of the People's Republic of China on the Protection of Consumer Rights and Interests.

2. Where an automobile seller promises to sell a consumer a new car that has not been used or repaired, and the consumer discovers after purchase that it is a used or repaired car, and the seller cannot prove that it has performed the duty of disclosure and obtained the consumer's acknowledgment, this constitutes sales fraud; where the consumer requests the seller to compensate for losses in accordance with the Consumer Rights and Interests Protection Law, the people's court shall support the claim.

Basic Facts

On February 28, 2007, the plaintiff Zhang Li purchased a Shanghai GM Chevrolet Epica sedan from the defendant Beijing Heli Huatong Automobile Service Co., Ltd. ("Heli Huatong") for RMB 138,000, and the parties signed an "Automobile Sales Contract." Article 7 of the contract stipulated: "... The seller guarantees that the vehicle purchased by the buyer is a new vehicle, that necessary inspection and cleaning have been carried out before delivery, that the odometer reading is 18 kilometers, and that the vehicle conforms to the specifications and indicators listed in the delivery documents provided by the seller to the buyer..." On the day the contract was signed, Zhang Li paid Heli Huatong the purchase price of RMB 138,000, and also paid vehicle purchase tax of RMB 12,400, one-stop service fee of RMB 500, and insurance premium of RMB 6,060. On the same day, Heli Huatong delivered a Chevrolet Epica sedan to Zhang Li, and Zhang Li completed the motor vehicle registration procedures for the car. On May 13, 2007, when Zhang Li sent the vehicle to Heli Huatong for maintenance, she discovered that the vehicle had been repaired on January 17, 2007.

During the trial, Heli Huatong stated that the vehicle purchased by Zhang Li had indeed been scratched during transport and was repaired on January 17, 2007; the repair items included repainting the right front fender, the right front door, and the right rear fender, panel beating of the right front door, the right rear fender, and the right front fender, and the replacement of the bottom sill clips, the fuel tank door, and the right front fender lamp assembly. The person who sent the vehicle for repair was a salesperson of the company. Heli Huatong claimed that the repair of the vehicle had been clearly disclosed to Zhang Li at the time of sale, and that a substantial discount had been given accordingly; the list price of the vehicle should have been RMB 151,900, and after negotiation the actual sale price was RMB 138,000, with some decorations also given as gifts. To prove the above facts, Heli Huatong provided the vehicle repair records and a vehicle handover and acceptance form dated February 28, 2007, signed by Zhang Li, in the remarks column of which was noted: "Fill 1/4 tank of fuel; this vehicle has been repaired by panel beating and repainting on the right side; sold at the agreed price." Heli Huatong stated that the acceptance form was kept by the company and that Zhang Li did not have a copy. As for the two pieces of evidence provided by Heli

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Huatong, Zhang Li stated that she had no objection to the vehicle repair records and that the signature on the vehicle handover and acceptance form was indeed hers, but that Heli Huatong had not disclosed at the time of sale that the vehicle had been repaired, and that when she signed, the remarks column did not contain the words "this vehicle has been repaired by panel beating and repainting on the right side; sold at the agreed price."

Judgment

In October 2007, the Chaoyang District People's Court of Beijing rendered Civil Judgment (2007) Chao Min Chu Zi No. 18230: (1) rescinding the "Automobile Sales Contract" signed by Zhang Li and Heli Huatong on February 28, 2007; (2) Zhang Li shall return the purchased Chevrolet Epica sedan to Heli Huatong within seven days of the judgment taking effect; (3) Heli Huatong shall refund Zhang Li the purchase price of RMB 124,200 within seven days of the judgment taking effect; (4) Heli Huatong shall compensate Zhang Li RMB 12,400 for purchase tax, RMB 500 for service fee, and RMB 6,060 for insurance premium within seven days of the judgment taking effect; (5) Heli Huatong shall pay Zhang Li doubled compensation of RMB 138,000 for the purchase price within seven days of the judgment taking effect; and (6) dismissing Zhang Li's other claims. After the judgment was pronounced, Heli Huatong appealed. On March 13, 2008, the Beijing No. 2 Intermediate People's Court rendered Civil Judgment (2008) Er Zhong Min Zhong Zi No. 00453: dismissing the appeal and affirming the original judgment.

Reasoning

The effective judgment held: The plaintiff Zhang Li purchased the automobile for her own use out of the needs of daily life, and the defendant Heli Huatong had no evidence proving that Zhang Li purchased the vehicle for business or other non-life consumption; therefore, Zhang Li's purchase of the automobile was for the needs of daily life consumption and the Law of the People's Republic of China on the Protection of Consumer Rights and Interests should apply.

According to the "Automobile Sales Contract" signed by the parties, the vehicle delivered by Heli Huatong to Zhang Li should have been a new vehicle with no repair records, but the vehicle sold had in fact been repaired before delivery; this was a fact acknowledged by both parties. The focus of the dispute was therefore whether Heli Huatong had performed the duty of disclosure in advance.

A reduction in or discount of the vehicle sale price, as well as the gifting of vehicle decorations, are common sales strategies of sellers and the result of negotiation between the parties; it cannot be inferred from this that Heli Huatong reduced the price and gave a discount on the basis of having disclosed the vehicle's defects to Zhang Li. The vehicle handover and acceptance form bearing Zhang Li's signature, submitted by Heli Huatong, was kept unilaterally by Heli Huatong, and the contents of the remarks column were written by different persons of the company; moreover, Zhang Li did not acknowledge it, and the acceptance form was insufficient to prove that Zhang Li was aware that the vehicle had been previously repaired. Therefore, Heli Huatong's defense that it had performed the duty of disclosing the defects to Zhang Li was not accepted, and it should be determined that Heli Huatong concealed the defects of the vehicle at the time of sale and committed fraud; it should return the vehicle and refund the payment, and increase the compensation for Zhang Li's losses.

Relevant Legal Provisions

Article 2 and Article 55, paragraph 1 of the Law of the People's Republic of China on the Protection of Consumer Rights and Interests (this paragraph was amended on October 25, 2013; before the amendment it was Article 49).

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