

Jurisprudence

Informations concernant l'affaire

ID national: Court of Cassation, Civil Chamber 1, Judgment 17/20778

État membre: France

Nom commun: N/A

Type de décision: Décision de justice faisant l'objet d'un recours

Date de la décision: 24/10/2018

Jurisdiction: Court of Cassation, civil chamber 1

Objet:

Demandeur: M. X.

Défendeur: Société Marcassus

Mots clés: conformity of the good with the contract, obligation of delivery, lack of conformity, repair and the replacement of the good, resolution of the sale

Articles de la directive

Consumer Sales and Guarantees Directive, [Article 3](#)

Note introductive

ECLI:FR:CCASS:2018:C100991

The resolution of the sale cannot be carried out if the lack of conformity is minor within the meaning of article 3 (6) of Directive 1999/44/EC on certain aspects of the sale and guarantees of consumer goods.

Faits

Mr X. (the buyer) had purchased the Alfa Romeo brand for used vehicles from Marcassus Sport (the company). The buyer decided to terminate the contract of sale for breach of contract due to the discovery of multiple points/bumps in the body of the used car.

The forensic report notes that "many small white spots are visible on the bodywork elements that look towards the road in the direction of the path, the gravel has removed the protective varnish from the paint, which shows the layer of primer". According to the report, said points appeared a few months after the sale of the vehicle and have worsened since then.

The buyer stated that this defect could not be clearly detected at the time of sale, which makes the vehicle unsuitable for use that can generally be expected within the meaning of article L. 211-5 of the Consumer Code. The buyer of a vehicle, even used, can legitimately assume that the original body paint will resist normal gravel impacts without damaging the protective varnish, up to the point where the primer appears, exposing the vehicle to premature corrosion and aesthetic degradation.

The Court of Appeal found that when the buyer was provided information, particular importance had been given to the aesthetic appearance of the body of the vehicle, which can be inferred from the statements on the order form related to a finish called "polish".

Therefore, despite the buyer successfully requesting a repair from the company and the fulfilment of the obligation on behalf of the company, the Court ordered the order of the resolution of the sale contract in base of articles L. 211 -9 and L. 211-10 that becomes articles L. 217-9 and L. 217-10 of the Consumer Code.

However, the company appealed the decision issued by the Court of Appeal of Toulouse before the Court of Cassation.

Question juridique

The lack of conformity that causes premature corrosion and the aesthetic degradation of a vehicle, could still be suitable for the use that is generally expected of a similar product? Would it constitute a breach of the obligation and entail the resolution of the sale contract?

Décision

The Court of Cassation recalled that the termination of a sale contract for lack of conformity is only allowed if the repair or replacement of the good is impossible and cannot be carried out within one month after the buyer's complaint, formulated as part of the conformity guarantee action.

As a result, the Court of Cassation annulled the decision of the Court of Appeal. According to the Court, the resolution of the sale cannot be pronounced if the lack of conformity is minor. Therefore, it considered that the request for rescission of the contract due to the fact that the body of the vehicle was affected by small white spots, without excluding that this supposed breach would be of minor importance. The Court of Appeal violated articles L 211-9 and L. 211-10 which become articles L. 217-9 and L. 217-10 of the Consumer Code.

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Affaires liées

Aucun résultat disponible

Doctrine

Aucun résultat disponible

Résultat

The Court of Cassation annulled the decision of the Court of Appeal of Toulouse.