

Sudska praksa**Detalji predmeta**

Nacionalna osobna isprava: County Court, Bjelovar, Judgement Gž 44/2017-3

Država članica: Hrvatska

Uobičajeni naziv: N/A

Vrsta odluke: Upravna odluka u žalbenom postupku

Datum odluke: 12/06/2019

Sud: Županijski sud u Bjelovaru

Predmet:

Tužitelj:

Tuženik:

Ključne riječi: B2C, consumer goods, consumer rights, price reduction, contract law

Članci Direktive

Consumer Sales and Guarantees Directive, [Article 2](#), [5](#). Consumer Sales and Guarantees Directive, [Article 3](#)

Uvodna napomena

The Court is not authorised to reject the plaintiff's request for payment of the remaining purchase price, despite the goods sold and installed having material defects, in the case when the buyer did not invoke his right as a buyer (consumer) to reduce the price.

Činjenice

The plaintiff and the defendant entered into a contract for the sale and installation of carpentry. In the enforcement proceedings, the plaintiff seeks payment of the price. The defendant did not pay the price in full because there were material defects in the installed carpentry.

Starting with the established facts, The First Instance Court concludes that the defendant informed the plaintiff on time about the lack of conformity: improper installation of carpentry. It concludes that as a buyer he used his legal right, but the Court also noted the plaintiff's legal obligation to eliminate the lack of conformity. The buyer did not ask for a price reduction.

Pravno pitanje

Is the plaintiff entitled to the payment of the entire fee on the basis of a contract for the manufacture of carpentry, which is completed with a lack of conformity, when the buyer did not request a price reduction?

Odluka

In a situation where the defendant demanded the plaintiff remove the defects on the installed carpentry, and the latter did not do so, but they were only partially removed by a third party, the defendant unreasonably opposes the payment of the remaining contract price only because the plaintiff did not eliminate the material defect as requested by the defendant.

Namely, in this specific case, the defendant could have successfully opposed the plaintiff's request for payment of the remaining part of the agreed purchase price only by claiming price reduction, compensation for the damage suffered as a result of the plaintiff's failure to eliminate material defect, or termination of the contract. However, the defendant did not raise a claim of such content in the present proceedings.

Therefore, The First Instance Court made a mistake in applying the substantive law when, by invoking the provision of Art. 410, paragraph 1, (1) of the Obligations Act (OA), it rejected the claim as unfounded, because with the correct application of the provision of Art. 376, paragraph 1, Art. 9. and Art. 29 para. 1 of the OA, the claim should have been accepted and the defendant obliged to pay the remaining part of the agreed purchase price in the amount of HRK 15,129.12 together with the statutory default interest running from the maturity of the obligation on 28 March 2015 until payment.

URL: <https://www.iusinfo.hr/>

Cjeloviti tekst: [Cjeloviti tekst](#)

Povezani predmeti

Nema dostupnih rezultata

Pravna literatura

Nema dostupnih rezultata

Rezultat

This decision sets an example for other courts.