

Case Details

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National ID	Legf. Bír. Gf. VI. 30.642/2000. sz.
Member State	Hungary
Common Name	link
Decision type	Other
Decision date	01/01/9999
Court	Magyar Köztársaság Legfelsőbb Bíróság (Supreme court)
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

Consumer Sales and Guarantees Directive, [Article 1, 2](#).

Headnote

Under the Consumer Protection Act (no. 155), suppliers (businesses) can, in certain cases, be covered by the term “consumer”.

Facts

Supplier B bought some windows from supplier A’s shop. Supplier B suffered damage as a result of this transaction. In the course of conciliatory proceedings, the conciliation bodies forced supplier A to pay supplier B compensation. Supplier B brought an action before the court aimed at establishing that the decision reached by the conciliation body was invalid. He referred, inter alia, to the 1997 Consumer Protection Act (CPA), which states that a supplier or limited company (Kft) may not act in a consumer capacity in concluding a legal transaction. Thus, this did not constitute a dispute under consumer law. He argued therefore that the court of arbitration had no jurisdiction over the case, meaning that the body’s decision was invalid.

Furthermore, supplier B stated that he had not pledged to comply with the conciliation body’s ruling.

The Court of First Instance dismissed the case. In its view, under § 2e of the aforementioned CPA, a consumer is any legal entity that, acting outside its commercial or professional capacity, buys, orders, receives or uses goods, or for whom a service is performed. Furthermore, the entity is to be considered a consumer if it is the addressee of product information or an offer made in connection with the goods or service.

In the case in question, supplier B had indeed bought windows to build an apartment. However, since there was no connection between his commercial and professional activities (he was a dentist, and sold shoes and leather goods etc) and this particular transaction, he was acting in a consumer capacity when he purchased the windows. The court emphasised that a crucial factor in this case was the fact that the supplier had no specialist knowledge with regard to the purchase.

Supplier A lodged an appeal against the ruling.

In his appeal submission, he argued that a business, by definition, is always acting in a professional and commercial capacity if it enters the goods as an expense on its tax return. He also stressed that the Consumer Protection Act contains the term “the consumer’s place of residence”, which would seem to indicate that a consumer could only be an individual, since a legal entity had no “place of residence”, though does have a professional “domicile”.

Legal issue

The Supreme Court rejected the appeal. In giving reasons for its verdict, it referred to § 2e CPA, according to which the term “consumer” does not exclude non-individuals. If that were the case, the Act would have referred explicitly to “individuals” rather than “entities”. Furthermore, the court rejected supplier A’s argument that, at another point in the Act, the term “place of residence” was used and only individuals have a “place of residence”. The court ruled that it was not possible to infer from this that businesses (legal entities) are completely excluded from the term “consumer”. In the court’s view, the Act deliberately uses the term “entity”, ie the term used in the Civil Code to refer to individuals, the State and legal entities. Thus, supplier B, as a limited company, was covered by the term “consumer”, unless he was acting in a professional or commercial capacity.

(Note: since 1st March 2003, the term “consumer” as used in the Civil Code (Ptk.) has, in line with the current legal situation, also included other entities and not simply individuals. Given the work being undertaken to codify the Ptk, further changes are expected in this field.)

Decision

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