

Case Details

Case Details

National ID	2/2011
Member State	Malta
Common Name	Brian Gilford vs Andrew Howie
Decision type	Other
Decision date	16/06/2011
Court	Procedura Ewropea ghal Talbiet Zghar (Court of first instance)
Subject	
Plaintiff	
Defendant	
Keywords	

Directive Articles

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

Headnote

No headnotes available.

Facts

Plaintiff was seeking payment of damages caused to a car he purchased from defendant in the UK. He realised that car was not working well after driving overland to Malta from the UK. Defendant when asked to rectify however refused to co-operate. Whilst in Malta he sought an estimate of the damages to the car and subsequently wrote to defendant requesting settlement. The company which had given the estimate of the damages confirmed that the damages were not due to wear and tear. Plaintiff filed a claim with the European Consumer Centre network which communicated with defendant but to no avail. Defendant contested plaintiff's claims before the Tribunal whilst acknowledging that he sold him the car stating that prior to selling the car he had taken it to a specialist who stated that he did not detect any defects. Defendant insisted that the car was not defective but that the damage caused was due to the fact that the car was not new and that plaintiff had made use of it so much in one week that the mileage raised was equivalent to the mileage that should have been raised over a six month period.

Legal issue

The Tribunal noted that plaintiff had driven the car overland from the UK to Malta but that within a fortnight from date of purchase the car had to be taken for repairs. The company which examined the car stated that cylinder head and engine block were found to be warped and that such damage did not occur due to normal wear and tear. The Tribunal said that this conclusion by the experts engaged by plaintiff contradicts the conclusion reached by defendant that the damage was due to wear and tear. The Tribunal said that the reality was that from when the car was purchased up to when the damage resulted the period was very short to exclude that the care was not defective and that on the basis of the report of the experts engaged by plaintiff it was evident that the damage was not due to normal wear and tear and that the damage was much more complex. The Tribunal in the circumstances decided that the version of plaintiff was more credible and upheld plaintiff's claims.

Decision

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Legal Literature

No results available

Result
