

Case Details

Case Details

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| National ID | 3-2-1-156-11 |
| Member State | Estonia |
| Common Name | link |
| Decision type | Supreme court decision |
| Decision date | 08/02/2012 |
| Court | The Supreme Court of Estonia |
| Subject | |
| Plaintiff | Janek Kaupmees, Reiven Roos |
| Defendant | OSAÜHING CAPITAL KINNISVARA |
| Keywords | conformity with the contract, price reductions |

Directive Articles

Consumer Sales and Guarantees Directive, [Article 3, 5](#). Consumer Rights Directive, [Chapter 4, Article 18, 4](#).

Headnote

(1) The law does not stipulate that the price needs to be reduced within a specific period of time, i.e a term for price reduction does not follow from the law. The reduction of price can, however, be impermissible due to non-compliance with the principle of good faith. That can be the case when the seller has a justified expectation that the price will not be reduced, because such a right has not been used for a long time by the buyer.

(2) The law does not stipulate that before reducing the price the seller has to be given an additional term for performing the obligation. Such an obligation might, however, arise from the principle of good faith, especially if the contrary would cause disproportionate costs to the seller.

(3) The reduction of price can be void if the period of limitation for the claim of performance (above all the claim for a removal of defect) on which the reduction of price is based has passed.

Facts

The plaintiffs bought an apartment from the defendant with the total area of 57.4 square meters. After concluding the sale contract it became evident that the total living space was 4.3 square meters smaller. The defendant had also included the area of the storage room in the living area. Hence, the plaintiffs reduced the price in accordance with the actual living space of the apartment.

The plaintiffs notified the defendant immediately thereof. In the action the plaintiffs claimed back the money exceeding the reduced price. The defendant claimed that the plaintiffs had not notified of the lack of conformity or submitted a compliant declaration for price reduction.

Legal issue

The Supreme Court held that although the law does not stipulate that before reducing the price the seller has to be given an additional reasonable term for performing the obligation, such an obligation might arise from the principle of good faith, especially if the contrary would cause disproportionate costs to the seller.

The declaration for price reduction does not have any formal requirements and it can be done also during court proceedings. The law does not set a term for making a price reduction. The reduction of price can, however, be impermissible due to non-compliance with the principle of good faith if the seller has been given a justified expectation that the price will not be reduced, because such a right has not been used for a long time.

The reduction of price can be void if the period of limitation for the claim of performance has passed. In that case, if the buyer bases its claim on the non-compliance of the performance, the reduction of price based on the lack of compliance, is void.

Decision

- (1) Does the price have to be reduced within a certain period of time?
- (2) Does the seller have to be given additional time for the performance of the contract before the reduction of price?
- (3) Can the reduction of price be void?

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