

Case law**Case Details**

National ID: 3K-3-350/2005

Member State: Lithuania

Common Name: link

Decision type: Supreme court decision

Decision date: 20/06/2005

Court: Supreme Court of Lithuania

Subject:

Plaintiff: V. S.

Defendant: UAB "Rasmitas"

Keywords: capacity of trader, consumer rights, goods, guarantee, right of withdrawal

Directive Articles

Consumer Sales and Guarantees Directive, [Article 3](#), 2. Consumer Sales and Guarantees Directive, [Article 6](#)

Headnote

The seller cannot impose additional conditions not clearly provided in an initial guarantee and limit his liability against the consumer.

Facts

The Plaintiff concluded with the Defendant a sale - purchase agreement under which the Plaintiff acquired a car Opel Zafira. Under the agreement, a 12 year term anticorrosive (quality) guarantee for the body of the car was provided. After 2 years from the date when the car was acquired, the body of the car corroded, then the Plaintiff applied to the Defendant with a purpose to terminate the sale-purchase agreement, but the Defendant did not accept the car and rejected the Plaintiff's proposal to terminate the agreement. The Plaintiff applied to the court.

As the Plaintiff claimed that he had the right to terminate the agreement, the Defendant argued that the anticorrosive guarantee could have been applied only if an open corrosion would have been found on the body of the car.

Legal issue

The court by taking into consideration the photos of the car as well as the fact that the Defendant had not explained to the Plaintiff that there were special conditions applied to the said quality (i.e. that it only covered an open corrosion), concluded that it was clear that the car was of an inappropriate quality (Article 2 point 1 of Directive 1999/44 (implemented into Lithuanian law by Article 6.363 para 2, Civil Code) and that the agreement was legally terminated.

Decision

Can the seller impose additional conditions not clearly provided in an initial guarantee and limit his liability against the consumer?

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Result

The court decided that the agreement was legally terminated.