

Case law

Case Details

National ID: Kúria Kfv.II.38.051/2014/5.

Member State: Hungary

Common Name: link

Decision type: Supreme court decision

Decision date: 20/05/2015

Court: Curia (Supreme Court)

Subject:

Plaintiff: Unknown

Defendant: Nemzeti Fogyasztóvédelmi Hatóság (National Consumer Protection Authority)

Keywords: commercial guarantee, false information, inaccurate information

Directive Articles

Consumer Sales and Guarantees Directive, [Article 6](#) , 2., - Consumer Sales and Guarantees Directive, [Article 6](#) , 5.

Headnote

(1) Requiring the consumer to provide the business party with the original packaging of the consumer goods as a condition for exercising guarantee rights impairs the consumers' legal rights under statutory guarantee.

(2) Informing the consumer that after the expiry of the one-year guarantee period, the business party may not process any claims related to the defect of the goods misleads the consumers.

(3) The insufficient drafting of the guarantee statement by the business party impairs the consumers' legal rights under statutory guarantee.

(4) Stating in the guarantee statement that the consumer may not exercise his guarantee rights in case the guarantee statement contains inadequate data misleads the consumers and impairs their legal rights under statutory guarantee.

(5) Stating in the guarantee statement that the service station must seek to repair the goods within 15 working days instead of 15 calendar days at the most misleads the consumers.

Facts

A local consumer protection authority conducted a test purchase at the business premises of the plaintiff. When issuing the guarantee statement, the plaintiff failed to include the type and serial number of the product purchased. In addition, the guarantee statement contained a statement that the consumer may not exercise his guarantee rights in case the guarantee statement contains inadequate data, and that in the case of repair, the service station must seek to repair the goods within 15 working days. Furthermore, as a response to the question of the local consumer protection authority, the plaintiff stated that one of the conditions of exercising the guarantee rights is that the consumer provides the business party with the original packaging of the product purchased, and that after the expiry of the one-year guarantee period, the business party may not process any claims related to the defect of the goods.

The local consumer protection authority imposed a fine on the plaintiff, and ordered the plaintiff to remedy the infringements. The local consumer protection authority stated that:

(1) Requiring the consumer to provide the business party with the original packaging of the consumer goods as a condition for exercising guarantee rights impairs the consumers' legal rights under statutory guarantee, because setting out such requirements is unlawful, and as a result, the consumer may refrain from exercising his guarantee rights in case the packaging is lost;

(2) Informing the consumer that after the expiry of the one-year guarantee period, the business party may not process any claims related to the defect of the goods misleads the consumers, because as a result, the consumer may refrain from exercising his rights under statutory warranty;

(3) The insufficient drafting of the guarantee statement by the business party impairs the consumers' legal rights under statutory guarantee, because such omission may make it harder to identify the product in question;

(4) Stating in the guarantee statement that the consumer may not exercise his guarantee rights in case the guarantee statement contains inadequate data misleads the consumers and infringes para (2) of § 4 of Government Decree No. 151/2003. (IX. 22.); and

(5) Stating in the guarantee statement that the service station must seek to repair the goods within 15 working days misleads the consumers, because the applicable law states that the service station must seek to repair the goods within 15 calendar days at the most.

The plaintiff appealed the decision, but the defendant upheld it. The plaintiff then contested the decision of the defendant before court. The first instance court upheld the defendant's decision regarding claims (1)-(2), but changed the decision regarding claims (3)-(5), stating that the statements and actions in question would not affect the consumers' rights directly, therefore they may not be deemed infringing. Regarding claim (3), the first instance court stated that omitting the type and serial number of the product from the guarantee statement does not affect the consumers' rights under statutory guarantee. Regarding claim (4), the first instance court held that such statement only applies to the falsification of the guarantee statement, and therefore such statement does not infringe 2) of § 4. of Government Decree No. 151/2003. (IX. 22.). Regarding claim (5) the first instance court stated that omitting the term "at the most" does not induce change in context, therefore may not be deemed infringing.

The defendants requested the Curia's (Supreme Court) revision of the judgment of the first instance court. The Curia changed the first instance court's decision, and declared the statements and actions referred to in claims (3)-(5) to be infringing. Regarding claim (3), the Curia stated that such omission impairs the consumers' legal rights under statutory guarantee, because it may make it harder to identify the product in question, thus impairing the consumers' ability to exercise his legal rights. Regarding claim (4) the Curia stated that the statement in question is so general that it may also apply to cases where the plaintiff issued the guarantee statement unlawfully, which would infringe para (2) of § 4 of Government Decree No. 151/2003. (IX. 22.). Regarding claim (5), the Curia held that the plaintiff did not infringe applicable laws by omitting the term "at the most", but by setting a deadline of 15 working days, rather than 15 calendar days.

Legal issue

(1) Requiring the consumer to provide the business party with the original packaging of the consumer goods as a condition for exercising guarantee rights impairs the consumers' legal rights under statutory guarantee, because setting out such requirements is unlawful, and as a result, the consumer may refrain from exercising his guarantee rights in case the packaging is lost.

(2) Informing the consumer that after the expiry of the one-year guarantee period, the business party may not process any claims related to the defect of the goods misleads the consumers, because as a result, the consumer may refrain from exercising his rights under statutory warranty.

(3) The insufficient drafting of the guarantee statement impairs the consumers' legal rights under statutory guarantee, because it may make it harder to identify the product in question, thus impairing the consumers' ability to exercise his legal rights.

(4) Stating that the consumer may not exercise his guarantee rights in case the guarantee statement contains inadequate data misleads the consumer, because the statement is so general that it may also apply to cases where the plaintiff issued the guarantee statement unlawfully, which would infringe para (2) of § 4. of Government Decree No. 151/2003. (IX. 22.).

(5) Stating in the guarantee statement that the service station must seek to repair the goods within 15 working days misleads the consumers, because the applicable law states that the service station must seek to repair the goods within 15 calendar days at the most.

Decision

(1) May the business party require the consumer to provide him with the original packaging of the consumer goods as a condition for exercising guarantee rights?

(2) Is it infringing to inform the consumer that after the expiry of the one-year guarantee period, the business party may not process any claims related to the defect of the goods?

(3) Is the insufficient drafting of the guarantee statement by the business party impairs the consumers' legal rights under statutory guarantee?

(4) Is stating in the guarantee statement that the consumer may not exercise his guarantee rights in case the guarantee statement contains inadequate data misleading?

(5) Is stating in the guarantee statement that the service station must seek to repair the goods within 15 working days instead of 15 calendar days at the most misleading?

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Result

The Curia agreed with the defendant's claims and changed the first instance court's judgement regarding claims (3)-(5).