

Rechtspraak

Bijzonderheden van de zaak

Nationaal ID: ECLI:NL:GHARL:2015:7295

Lidstaat: Nederland

Gangbare benaming: N/A

Soort beslissing: Rechterlijke beslissing in beroep

Datum beslissing: 29/09/2015

Gerecht: Gerechtshof Arnhem-Leeuwarden

Onderwerp:

Eiser: Unknown

Verweerder: Unknown

Trefwoorden: consumer

Richtlijnartikelen

Consumer Sales and Guarantees Directive, [link](#)

Koptekst

The seller has to carry the burden of proof in case of non-conformity of a good that was bought under a consumer agreement. Non-conformity of the sold good must be established in order for this rule to apply.

Feiten

Defendant is the sole proprietor of a business in second hand cars. He advertises on www.autoscout24.nl and elsewhere, an online marketplace for car selling companies and consumers. Plaintiff operates a German entity that buys and sells used cars, mainly for the export to African countries. On the website autoscout24.nl, plaintiff found defendant's advertisement of a Range Rover. On 18 January 2013, plaintiff and (an employee of) defendant concluded a purchase agreement by phone for 14.500 euros. On 21 January 2013, plaintiff went to seller to collect the car and the paperwork for the export. On the same day, plaintiff drove the car from the Netherlands to Belgium, experienced problems with it and contacted the defendant. A towing company from Belgium brought the car to a nearby scrapyard.

Juridische kwestie

Which party has to carry the burden of proof in case of non-conformity of a good that was bought under a consumer agreement?

Uitspraak

Plaintiff claims to have acted as a consumer. The car could be used privately as well as for business purposes, while plaintiff operates a car trading company. It is relevant if, from the telephone conversation on 18 January 2013 and other circumstances, it was clear that the plaintiff wanted to buy this car for private use. Plaintiff is permitted by the court to provide evidence to prove that he acted as a consumer.

If he fails to do so, he needs to prove that the delivered item (the car) is in non-conformity with the agreement, i.e. that it did not have the actual characteristics required for normal use. The court states that the plaintiff had the right to expect that the car would work for a longer period than one day. In other words, at the time of purchase plaintiff did not need to bear in mind nor presume or anticipate that the car would only work for a very short period of time. In preliminary relief proceedings, the court finds that the car was indeed not in conformity with the agreement. The court rules that the defendant needs to provide evidence to the contrary.

URL: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHARL:2015:7295>

Integrale tekst: [Integrale tekst](#)

Verwante zaken

Geen resultaten

Rechtsleer

Geen resultaten

Resultaat