

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-002940-DG

SAFE AUTO INSURANCE COMPANY

APPELLANT

ON DISCRETIONARY REVIEW FROM FAYETTE CIRCUIT COURT
v. HONORABLE THOMAS L. CLARK, JUDGE
ACTION NO. 00-XX-00035

KEY AUTO AND FINANCE, INC.

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: GUIDUGLI, MILLER, AND SCHRODER, JUDGES.

MILLER, JUDGE: Safe Auto Insurance Company (Safe Auto) brings this appeal from a November 27, 2000, order of the Fayette Circuit Court. We affirm.

On February 12, 2000, Robert Coleman (Coleman) purchased a 1993 Chevrolet Cavalier from Appellee, Key Auto and Finance, Incorporated (Key Finance). Coleman made a down payment on the car and financed the balance by installment contract and security agreement. Key Finance retained a security interest in the vehicle and required Coleman to purchase collision insurance. On February 15, 2000, Coleman took out an insurance policy with

Safe Auto, which included collision coverage. Coleman made the initial payment on the insurance policy by check. The same day, Safe Auto faxed as proof of insurance coverage a declarations page to Key Finance.

On February 19, 2000, Coleman was involved in an automobile accident resulting in the vehicle being totaled. After the accident, Coleman's check for the auto insurance was returned for insufficient funds. As a result, Safe Auto denied coverage.

On March 29, 2000, Key Finance brought an action against Coleman and Safe Auto in the Fayette District Court¹. On August 21, 2000, the district court granted summary judgment in favor of Key Finance. Safe Auto appealed to the Fayette Circuit Court. On November 27, 2000, the circuit court affirmed the district court. On February 15, 2001, Safe Auto was granted discretionary review by this court.

The sole issue before us is whether the district court erred in granting summary judgment in favor of Key Finance. Summary judgment may be granted where there exists no material issue of fact and movant is entitled to judgment as a matter of law. Steelvest, Inc. v. Scansteel Service Center, Inc., Ky., 807 S.W.2d 476 (1991). In sustaining the district court's grant of summary judgment to Key Finance, the circuit court wrote:

The determination of whether the grant of summary judgment in this case was appropriate revolves almost exclusively around the proper interpretation of the

¹Key Finance was granted a default judgment against Coleman. He is not a party to this appeal.

opinion of the Kentucky Court of Appeals in National Insurance Association v. Peach, Ky. App., 926 S.W.2d 859 (1996). In Peach the case involved the serious injury and death of a pedestrian by the negligent driving of one of National Insurance's insured. After the accident National Insurance denied coverage arguing the policy in issue was void from inception due to the surfacing of material misrepresentations which were made at the time of the policy's acquisition. The Court of Appeals reviewed the facts and the specific requirements of Kentucky's Motor Vehicle Reparations Act (hereinafter "the MVRA"), and held that

the compulsory automobile insurance statutes, when read together, abrogate the right of an insurer to rescind automobile liability insurance so as to deny recovery to an innocent third-party claimant. Rescission of the insurance contract in this limited instance is precluded-even though a fraud may have been perpetrated in securing the coverage.

Id. at 863. What this case then means is that Appellant cannot deny the Appellee recovery under the insurance policy in dispute.

. . . The Peach Court held that the objective of the MVRA is "to insure continuous liability insurance coverage in order to protect the *victims* of motor vehicle accidents and to insure that one who suffers a loss as a result of an automobile accident would have a source and means of recovery." Id. at 861. The Appellee is a victim of a motor vehicle accident under the facts of this case, albeit not a tort victim,

We disagree with the district court's application of National Insurance Association v. Peach, Ky. App., 926 S.W.2d 854 (1996). There are crucial differences between Peach and the case *sub judice*. Most notably, Peach involved construction of the Kentucky Motor Vehicle Reparations Act (MVRA), Kentucky Revised

Statutes (KRS) Chapter 304, Subtitle 39. The MVRA mandates minimum amounts of automobile liability insurance coverage. The coverage under which Key Finance seeks to collect is collision. Collision coverage extends to *physical damage* to the *insured* vehicle only, and it is not mandated under the MVRA. Thus, we are of the opinion Peach is inapposite to the case at hand.

The Court of Appeals, however, may affirm the circuit court for different reasons than the circuit court gave in its judgment. See Revenue Cabinet v. Joy Technologies, Inc., Ky. App., 838 S.W.2d 406 (1992). We believe there are ample grounds for affirming the circuit court under the doctrine of estoppel. See Smith v. Ash, Ky., 448 S.W.2d 51 (1969).

One who knows or should know of a situation or material fact is estopped from denying it where by conduct he induces another's detrimental reliance. Hunts Branch Coal Company v. Canada, Ky., 599 S.W.2d 154 (1980). Estoppel is established where another party relies in good faith on representations made by the estopped party. Grayson Rural Electric Corporation v. City of Vanceburg, Ky., 4 S.W.3d 526 (1999).

When Coleman applied for an automobile insurance policy from Safe Auto, Safe Auto generated a declarations page. The declarations page listed a policy number, effective date, coverages, including collision coverage, was countersigned by the agent, and named Key Finance as lienholder on the vehicle. The declarations page did not indicate any coverage contingencies based on method of payment. Safe Auto then faxed this document to Key Finance; Key Finance released the vehicle to Coleman in

reliance upon Safe Auto's declarations page. Quite obviously, Key Finance relied upon the declarations page faxed to it by Safe Auto was reasonable. Thereafter, the car was totaled and Safe Auto denied coverage to the detriment of Key Finance. We think Key Finance reasonably relied upon Safe Auto's declarations page and changed its position to its detriment. As such, we are of the opinion Safe Auto is estopped from denying collision coverage on Coleman's vehicle. We thus affirm the circuit court albeit upon different grounds. See Joy Technologies, Inc. 838 S.W.2d 406.

For the foregoing reasons, the judgment of the Fayette Circuit Court is affirmed.

SCHRODER, JUDGE, CONCURS.

GUIDUGLI, JUDGE, CONCURS IN RESULT ONLY.

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