[Cite as *Bridge v. Midas Auto Experts #322*, 2010-Ohio-4681.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94115

WILLIAM W. BRIDGE, III

PLAINTIFF-APPELLANT

vs.

MIDAS AUTO EXPERTS #322, ET AL.

DEFENDANTS-APPELLEES

JUDGMENT:
REVERSED AND REMANDED

Civil Appeal from the
Lyndhurst Municipal Court
Case No. 08 CVF 01256

BEFORE: Stewart, J., Gallagher, A.J., and Blackmon, J.

RELEASED AND JOURNALIZED: September 30, 2010

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MELODY J. STEWART, J.:

{¶ 1} Plaintiff-appellant, William W. Bridge, III, appeals from the order of the Lyndhurst Municipal Court granting summary judgment in favor of defendants-appellees, Midas Auto Service Experts #322 and James Knepper. For the reasons stated below, we reverse and remand.

{¶ 2} Appellant's daughter, Gail Bridge, brought her father's 1997 Saturn automobile into appellees' shop for repairs on June 6 and June 9, 2008. Ms. Bridge brought the car in the first time complaining that the car did not accelerate properly. Appellees replaced a gasket, spark plugs, and

wires. Ms. Bridge brought the car back complaining that it would not start. This time appellees replaced the starter. Later that night, as Ms. Bridge was driving home from work, the car broke down on the highway and had to be towed. A subsequent inspection by a Goodyear auto repair dealership found a large hole in the engine block and a missing oil filter.

{¶ 3} Appellant filed suit against Midas and Knepper, the employee who did the repair work, seeking judgment under the Ohio Consumer Protection Sales Act for deceptive and unconscionable acts and practices related to the repair work. Specifically, appellant alleged that appellees neglected to add motor oil to the engine after the repairs, resulting in the destruction of the engine. Appellant sought compensatory, statutory, and punitive damages.

{¶ 4} Appellees moved for summary judgment on the grounds that appellant was not the vehicle's titleholder at the time of the repair work and, therefore, lacked standing to bring suit. On October 5, 2009, the trial court granted appellees' motion, finding that appellant lacked standing. As a result of this ruling, the trial court dismissed all pending motions as moot including appellant's motion to compel discovery and cross-motion for summary judgment. Appellant timely appeals raising two errors for review.

{¶ 5} For his first assignment of error, appellant asserts that the trial court erroneously relied upon R.C. 4505.04 of the Ohio Certificate of Title Act

to find that he lacked standing to bring suit. He argues that R.C. 4505.04 is applicable only to title and ownership disputes. He maintains that because there are no competing claims to the vehicle's ownership and he has presented a bill of sale establishing his ownership of the vehicle, he has demonstrated the requisite standing to bring a suit for damages resulting from appellees' servicing of the car.

{¶ 6} "Standing is a threshold test that, if satisfied, permits the court to go on to decide whether the plaintiff has a good cause of action, and whether the relief sought can or should be granted to plaintiff." *Tiemann v. Univ. of Cincinnati* (1998), 127 Ohio App.3d 312, 325, 712 N.E.2d 1258. A party has standing to sue only when he or she is directly benefitted or injured by the outcome of the case. *W. Clermont Edn. Ass'n. v. W. Clermont Local Bd. of Edn.* (1980), 67 Ohio App.2d 160, 426 N.E.2d 512, paragraph one of the syllabus. The question of standing is an issue of law, which we review de novo. *In re Estate of Herrick*, Cuyahoga App. No. 82057, 2003-Ohio-3025, at ¶ 7. Under a de novo review, an appellate court does not give deference to a trial court's determination. *Tamarkin Co. v. Wheeler* (1992), 81 Ohio App.3d 232, 234, 610 N.E.2d 1042.

{¶ 7} It is uncontested that appellant did not have title to the car when the repairs were made. State of Ohio records show that Euro Used Car Sales ("Euro") purchased the car from another dealer in July 2007. A certificate of

title in Euro's name was issued at that time. Euro subsequently lost the original title and had a duplicate title issued in August 2008. Euro then transferred title to B & L Auto Sales on November 29, 2008. B & L Auto Sales transferred the title to appellant on that same day. However, appellant produced documentary evidence to show that Euro sold the car to B & L Auto Sales for $1,295 at an auction on May 15, 2008. Appellant also produced a bill of sale showing that he purchased the car from B & L Auto Sales for $1,295 on May 19, 2008. On both documents, appellant signed for B & L Auto Sales in a representative capacity.

{¶ 8} Appellees based their motion for summary judgment on R.C. 4505.04(B), which provides that no court "shall recognize the right, title, claim, or interest of any person in or to any motor vehicle sold or disposed of, or mortgaged or encumbered" unless evidenced by a certificate of title, by admission in the pleadings, by stipulation of the parties, or by an instrument showing a valid security interest. Appellees established that appellant did not hold title to the vehicle at the time of the repairs, and that there was no admission, stipulation, or secured interest in the case. The trial court applied the statute and found that without a certificate of title at the time of the incident, appellant lacked standing to sue for damage to the vehicle.

{¶ 9} The trial court misapplied the law. R.C. 4505.04 applies where parties assert competing rights or competing interests in a motor vehicle.

State v. Rhodes (1982), 2 Ohio St.3d 74, 75, 442 N.E.2d 1299; *Grogan-Chrysler Plymouth, Inc. v. Gottfried* (1978), 59 Ohio App.2d 91, 94, 392 N.E.2d 1283. "R.C. 4505.04 was intended to apply to litigation where the parties were rival claimants to title, i.e., ownership of the automobile; to contests between the alleged owner and lien claimants; to litigation between the owner holding the valid certificate of title and one holding a stolen, forged or otherwise invalidly issued certificate of title; and to similar situations." *Grogan Chrysler-Plymouth, Inc.*, 59 Ohio App.2d at 94. See, also, *Hughes v. Al Green, Inc.* (1981), 65 Ohio St.2d 110, 115-116, 48 N.E.2d 1355. A certificate of title "is required where a plaintiff asserts a right in a motor vehicle and where a defendant's defense or claim is based on an interest in the same automobile. However, the statute's purpose terminates when the defense is not based upon some claimed right, title, or interest in the same automobile." *Hoegler v. Hamper* (1992), 79 Ohio App.3d 280, 283, 607 N.E.2d 89, citing *Grogan Chrysler-Plymouth, Inc.*

{¶ 10} This court has previously recognized the limited scope of R.C. 4505.04 and found that as long as an ownership interest is shown, a plaintiff can recover for property damage to a vehicle without producing a certificate of title. *Suru v. City of Cleveland* (Feb. 25, 1999), 8th Dist. No. 73639. "If the case does not involve both parties claiming an ownership interest in the motor vehicle, R.C. 4505.04 does not apply. See *Western Reserve Casualty*

Co. v. Mueller (1969), 18 Ohio App.2d 307, 309, *Grogan Chrysler-Plymouth, Inc. v. Gottfried* (1978), 59 Ohio App.2d 91, *Caledrone v. Jim's Body Shop* (1991), 75 Ohio App.3d 506, 510, *Hoegler v. Hampler* (1992), 79 Ohio App.3d 280, *State v. Rhodes* (1982), 2 Ohio St.3d 74, 75." Id. See, also, *Ali v. Brickner* (Sept. 18, 1986), 8th Dist. No. 51190 (affirming the trial court's grant of judgment to a vehicle owner for damage to the vehicle even though the vehicle owner was not the titleholder on the date of the incident).

{¶ 11} There are no competing claims to ownership in this case. Appellees do not claim an ownership interest in the vehicle. Appellant had possession of the vehicle and presented a bill of sale to demonstrate an ownership interest. A certificate of title to the vehicle was issued in appellant's name prior to the trial court's grant of summary judgment. "When there is no legitimate dispute over ownership of the vehicle, the reason for requiring a certificate of title does not exist." *Suru v. City of Cleveland*, supra. Accordingly, the trial court incorrectly determined that appellant lacked standing to bring suit. Appellant's first assignment of error is sustained.

{¶ 12} Appellant's second assignment of error raises issues that are not ripe for review. Appellant argues that the trial court erred when it denied his cross-motion for summary judgment. He argues that his motion has merit and should be granted. However, because the motion was denied as

moot based upon the court's determination that appellant lacked standing, the merits of appellant's motion have yet to be considered in the court below. Accordingly, we will not address this assignment of error.

{¶ 13} This cause is reversed and remanded for proceedings consistent with this opinion.

It is ordered that appellant recover of appellees his costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the Lyndhurst Municipal Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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MELODY J. STEWART, JUDGE

SEAN C. GALLAGHER, A.J., and
PATRICIA ANN BLACKMON, J., CONCUR