

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

OYEDELE OGUNYEMI and	:	
LAPO OGUNYEMI	:	
	:	
Appellants,	:	
v.	:	C.A. No. 06A-10-001 JAP
	:	
STEVE GROOVER,	:	
	:	
Defendant.	:	

Submitted: July 20, 2009
Decided: August 5, 2009

On Appeal from a Decision of the Court of Common Pleas.
AFFIRMED.

ORDER

William L. O’Day, Jr., Esquire, Woloshin, Lynch, Natalie & Gagne,
Wilmington, Delaware, Attorney for Appellants.

Christopher Sipe, Esquire, Newark, Delaware, Attorney for Appellee.

PARKINS, J.

This 5th day of August 2009, it appears to the Court that:

1. On or about July 6, 2004, Steve Groover purchased a 1999 Toyota Land Cruiser from Oyedele and Lapo Ogunyemi via an online auction. The online advertisement stated that the vehicle had “[a]bsolutely no problems,”

that the paint was “still shiny like new, that the leather interior was “in superb condition with no tears and light wrinkle,” and that there were “no stains or signs of excessive wear.”¹ Upon receipt of the vehicle, Groover noted “substantial rust on the undercarriage, numerous dents and paint chipping on the exterior, stains on the carpet underneath the floor mats, torn leather behind both passenger seats, torn netting in the trunk of the vehicle, damaged leather on the head rests, as well as duct taping and stains near one of the window controls.”²

2. Groover filed suit in the Court of Common Pleas alleging, *inter alia*, fraud in the inducement. The Ogunyemis did not attend trial or present any evidence on their behalf.³ On September 5, 2006, the trial court issued a decision holding that:

Based on the sixty-six photographs and testimony presented during plaintiff’s case-in-chief, and keeping in mind that the Court has no other evidence or testimony to weigh against it, the Court finds that Groover has presented evidence sufficient to show, by a preponderance of the evidence, that the Ogunyemis falsely mis-represented the condition of the vehicle; and/or omitted information regarding its actual condition which they had a duty to disclose; and that the false representations and/or omissions were made, at the very least, with a “reckless indifference to the truth.”⁴

¹ Trial Ex. 1.

² *Groover v. Ogunyemi*, 2006 WL 2615151, at *2 (Del. CCP); Trial Ex. 2.

³ The Ogunyemis’ attorney attended trial and cross-examined Groover.

⁴ *Groover*, 2006 WL 2615151, at *4.

The trial court awarded Groover \$30,253.75 in damages, which included the sales price, transportation, incidental costs, and interest, plus \$1,000 in punitive damages.

3. The Ogunyemis filed an appeal in this Court on October 10, 2006. On May 3, 2007, the Court ordered the Ogunyemis to file a transcript from the Court of Common Pleas proceedings so that the appeal could proceed. On November 22, 2009, Groover filed a motion to dismiss the appeal because the Ogunyemis had still not filed the transcript with the Court. The judge who was previously assigned to this case denied the motion to dismiss and ordered the Ogunyemis to pay certain fees that Groover incurred due to the delay of the proceedings. The briefing is now complete.

4. The standard of review this Court must apply on an appeal from the Court of Common Pleas is “whether there is legal error and whether the factual findings made by the trial judge are sufficiently supported by the record and are the product of an orderly and logical deductive process.”⁵

5. After a review of the record, this Court is satisfied that there is ample evidence to support the trial court’s finding of fact and that the decision is free from legal error. The Ogunyemis argue that the trial court should have deducted the value of the car from the award because Groover is still in

⁵ *Wright v. Platinum Fin. Servs.*, 2007 WL 1850904, at *2 (Del. Supr.).

possession of the car. However, the Ogunyemis fail to point to any evidence in the record as to the value of the car or to where they made this argument below. Therefore, the Court will not consider this argument.⁶

6. Because the trial court's decision was supported by the record and free from legal error, the decision is **AFFIRMED**.

IT IS SO ORDERED.

oc: Prothonotary

⁶ *Small v. MBNA America*, 2008 WL 4365895, at *2 (Del. Super.) (“The appeals process limits the court to examining the issues the litigant presented to the tribunal below.”).