IN THE COURT OF APPEALS OF IOWA

No. 8-341 / 07-1679
Filed October 1, 2008

MIRSAD BEGANOVIC and
MINKA BEGANOVIC,
Plaintiffs-Appellees,

vs.

JOSHUA MUXFELDT and
LONNIE G. MUXFELDT,
Defendants-Appellants.

Appeal from the Iowa District Court for Polk County, Artis I. Reis, Judge.

Defendants appeal from a district court judgment entered against them in plaintiffs' personal injury action arising from a car accident. **AFFIRMED.**

Matthew Haindfield of Bradshaw, Fowler, Proctor & Fairgrave, P.C., Des Moines, for appellants.

Richard McConville of Coppola, McConville, Coppola, Hockenberg & Scalise, P.C., West Des Moines, for appellees.

Heard by Mahan, P.J., and Vaitheswaran and Doyle, JJ.

MAHAN, P.J.

Defendants Joshua Muxfeldt and Lonnie Muxfeldt appeal from a district court judgment entered against them in Mirsad Beganovic and Minka Beganovic's personal injury action arising from a car accident. The Beganovics sued the Muxfeldts seeking damages for injuries caused by the negligent operation of a motor vehicle by Joshua Muxfeldt. At trial, the primary issue was whether Lonnie Muxfeldt was an owner of the vehicle involved in the accident that caused plaintiffs' injuries or whether there had been a *bona fide* transfer of Lonnie's interest in the vehicle to Joshua prior to the accident. We affirm.

I. Background Facts and Proceedings

Plaintiff Minka Beganovic sustained severe injuries December 25, 2004, while a passenger in a car driven by her husband, plaintiff Mirsad Beganovic. Plaintiffs sued defendant Joshua Muxfeldt, the driver and co-owner of the 2001 Dodge Dakota vehicle that collided with the Beganovics' vehicle,[1] and defendant Lonnie Muxfeldt, co-owner of the vehicle driven by his son, Joshua.[2]

Approximately three months prior to the accident, Lonnie and Joshua entered into a three-party, three-vehicle transaction at a local car dealership. In the transaction, Lonnie, on behalf of his corporation, traded in the vehicle later involved in the accident (a 2001 Dodge Dakota) to purchase a new vehicle, and Joshua traded in his vehicle to purchase the 2001 Dodge Dakota his father had just traded in. Lonnie transferred the 2001 Dodge Dakota to Joshua through the car dealership to avoid certain tax liabilities the parties would have incurred if

[1] Joshua's liability was admitted prior to trial.
[2] It is undisputed that both Lonnie's and Joshua's names were listed on the vehicle's title at the time of the accident.

they had transferred the vehicle directly from Lonnie to Joshua.[3] At the conclusion of the transaction, the dealership informed Lonnie that his name would need to be included on the vehicle's title because he was required to cosign on the loan Joshua had taken out to pay for the vehicle. Lonnie therefore signed the vehicle's title as a co-owner so the financing for the vehicle would go through.

Thereafter, Joshua took possession of his vehicle and drove it from the car dealership to his residence in Marshalltown. Lonnie drove his new vehicle to his residence in Harlan. Lonnie did not drive or ride in the 2001 Dodge Dakota again from that point on. Joshua's insurance was transferred from his old vehicle to the new vehicle, and Joshua made the payments for the insurance. Joshua also began making the installment payments on the vehicle's loan. After the accident, Joshua's insurance carrier declared the vehicle a total loss, and Joshua received all the insurance proceeds paid under the policy.

At trial, the sole issues were the extent of plaintiffs' damages and whether Lonnie was exempt from liability as a result of the alleged transfer of his ownership interest in the vehicle to Joshua prior to the accident. Prior to trial, plaintiffs filed a motion in limine seeking to exclude evidence of Lonnie's alleged transfer of his interest in the vehicle to Joshua. Defendants resisted the motion. The court requested defendants present their evidence of the transfer outside the presence of the jury in the form of an offer of proof to determine whether defendants' objections were valid before allowing certain testimony to be presented to the jury.

[3] Lonnie is a certified public accountant.

At the conclusion of defendants' offer of proof, plaintiffs moved for directed verdict as to the issue of transfer of Lonnie's interest in the vehicle. The court granted the motion and found as a matter of law that both Lonnie and Joshua were owners of the vehicle involved in the accident.[4] No evidence of Lonnie's transfer of interest was presented to the jury.

On August 31, 2007, the jury returned a verdict against defendants, jointly and severally, in the amount of $952,000. Defendants now appeal, claiming the district court erred by applying "title principles" instead of "ownership principles" in interpreting Iowa Code section 321.493(2) (2005) and in determining whether Lonnie made a *bona fide* transfer of his interest in the vehicle to Joshua. Defendants further claim the court erred by deciding ownership of the vehicle as a matter of law instead of submitting the question to the jury.

II. Scope and Standards of Review

This case was tried at law, and our review is for corrections of errors at law. Iowa R. App. P. 6.4; *Wells v. Enterprise Rent-A-Car Midwest*, 690 N.W.2d 33, 36 (Iowa 2004). We review the district court's interpretation and construction of a statute for the correction of errors at law. *Reilly v. Anderson*, 727 N.W.2d 102, 105 (Iowa 2006). Findings of fact in a law action are binding on appeal if they are supported by substantial evidence. Iowa R. App. P. 6.14(6)(*a*). Evidence is substantial when a reasonable mind would accept it as adequate to reach a conclusion. *Beal Bank v. Siems*, 670 N.W.2d 119, 125 (Iowa 2003).

[4] In doing so, the court rejected defendants' claim that Lonnie had made a *bona fide* transfer of his interest in the vehicle to Joshua pursuant to Iowa Code section 321.493(2).

Our review of evidentiary rulings is for abuse of discretion. We therefore review the trial court's allowance or refusal to allow evidence on the basis of abuse of discretion. *Vasconez v. Mills*, 651 N.W.2d 48, 55 (Iowa 2002). A court abuses its discretion when it exercised such discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *In re J.A.L.*, 694 N.W.2d 748, 751 (Iowa 2005); *State v. Maghee*, 573 N.W.2d 1, 5 (Iowa 1997).

III. Merits

A. Transfer of Interest in the Vehicle

Defendants argue the court should have determined Lonnie made a *bona fide* transfer of his interest in the vehicle to Joshua pursuant to Iowa Code section 321.493(2). Section 321.493(1)(a) provides the general rule for determining liability for damages resulting from negligence of a driver operating a vehicle with permission from the owner. That section states:

> 1. a. Subject to paragraph "b", in all cases where damage is done by any motor vehicle by reason of negligence of the driver, and driven with the consent of the owner, the owner of the motor vehicle shall be liable for such damage. For purposes of this subsection, "owner" means the person to whom the certificate of title for the vehicle has been issued or assigned . . . .

Iowa Code § 321.493(1)(a). However, section 321.493(2), the section upon which defendants rely, provides an exception for an owner who has made a *bona fide* transfer of their interest in a vehicle and delivered possession of the vehicle to the transferee. That section provides:

> 2. A person who has made a bona fide sale or transfer of the person's right, title, or interest in or to a motor vehicle and who has delivered possession of the motor vehicle to the purchaser or transferee shall not be liable for any damage thereafter resulting from negligent operation of the motor vehicle by another, but the purchaser or transferee to whom possession was delivered shall be

> deemed the owner. The provisions of subsection 2 of 321.45 shall not apply in determining, for the purposes of fixing liability under this subsection, whether such sale or transfer was made.

Iowa Code § 321.493(2). Therefore, according to this language, section 321.45(2) does not apply for purposes of determining liability when a *bona fide* transfer has been made.[5] To prevail on a *bona fide* transfer defense, a transferor must prove they have effectively transferred and delivered possession of the vehicle to the transferee pursuant to 321.493(2).

Defendants cite various documents and witness testimony in support of their claim that Lonnie made a *bona fide* transfer of his interest in the vehicle to Joshua prior to the accident. Defendants also provided the evidence in their offer of proof to the court at trial. Specifically, defendants presented the following evidence in the offer of proof:

1. A credit application signed by Joshua as the "Applicant" and by Lonnie as the "Co-Applicant" for Joshua's financing of the vehicle.
2. An odometer disclosure statement signed by Joshua as the "Transferee/Buyer" of the vehicle.
3. A damage disclosure statement signed by Joshua as the "Buyer" of the vehicle.
4. A buyer's guide signed by Joshua as the "Transferee/Buyer" of the vehicle.
5. A warranty transfer document transferring the vehicle's warranty from Lonnie to Joshua.
6. A service contract waiver signed by Joshua as the "Owner" of the vehicle.
7. A notice of requirement to provide insurance signed by Joshua as the "Buyer" of the vehicle.
8. Witness testimony indicating Joshua's exercise of possession and control of the vehicle, Joshua's payment of vehicle-related expenses, and Joshua's receipt of insurance proceeds after the accident.

[5] Section 321.45(2) is the provision for proof of ownership by certificate of title.

9. Witness testimony indicating that Lonnie's name was included on the vehicle's title for the sole purpose of obtaining vehicle financing for Joshua.

Defendants contend this evidence shows a *bona fide* transfer occurred and the fact that Lonnie's name was on the vehicle's title is irrelevant. They argue our supreme court's decisions in *Weber v. Warnke*, 658 N.W.2d 90, 97 (Iowa 2003) (finding certificate of title is irrelevant in determining whether a *bona fide* transfer has occurred), and *State Automobile & Casualty Underwriters v. Farm Bureau*, 131 N.W.2d 265, 267 (Iowa 1964) (finding a *bona fide* transfer of an interest in a vehicle may occur even when the transferor's name is deliberately left on the title to accommodate financing for the transferee), support their contention.

Defendants specifically rely on the similarities between this case and the facts of *State Auto*, where the supreme court found that a *bona fide* transfer of interest in a vehicle had occurred as a matter of law. *State Auto*, 131 N.W.2d at 267. In *State Auto*, a sister transferred her interest in a vehicle to her half-brother. *Id*. at 266. The half-brother took possession of the vehicle, transferred insurance coverage for the vehicle, and began making payments for the vehicle. *Id*. at 266-67. However, the sister left her name on the title to obtain financing for the half-brother. *Id*. Soon after, the half-brother was involved in an accident, and a dispute arose between the parties' insurers as to who was liable for the damages caused by the accident. *Id*. at 265-66. The court found a *bona fide* sale of the vehicle had occurred for purposes of section 321.493 even though the title was not transferred to the half-brother's name. *Id*. at 267.

The supreme court recently reiterated that courts are required "to discount the effect of the registration of the vehicle" for purposes of establishing liability. *Weber*, 658 N.W.2d at 94 (quoting *Desy v. Rhue*, 462 N.W.2d 742, 747 (Iowa Ct. App. 1990). Furthermore, the court has found that where conflicting evidence of ownership exists when a title has not been transferred to the new owner of the vehicle, the issue of ownership is for the jury to determine. *Six v. Freshour*, 231 N.W.2d 588, 590-91 (Iowa 1975).

Defendants contend that Iowa law required the trial court to discount the fact that his name appeared on the vehicle's title, and that the court erred in applying "title principles" in determining the owner of the vehicle for liability purposes. Instead, defendants claim the court should have applied "ownership principles" and looked to Joshua's possession of the vehicle and other evidence that Lonnie had transferred his interest in the vehicle to Joshua in determining liability.

Plaintiffs argue, however, that Lonnie was a co-owner of the vehicle and that a *bona fide* transfer of his interest to Joshua had not occurred. Plaintiffs claim Lonnie had knowingly and voluntarily signed the title for the vehicle. Plaintiffs further claim Lonnie made many damaging admissions after the accident that proved his ownership interest in the vehicle, including the following:

1. Testimony of Lonnie at trial and in pre-trial depositions that he knowingly and voluntarily retained a title ownership interest in the vehicle for the purpose of obtaining financing for the vehicle.
2. Testimony of Lonnie at trial and in pre-trial depositions that he conducted the three-party, three-vehicle transaction through the car dealership to avoid certain tax liabilities the parties would have incurred if Lonnie had transferred the vehicle directly to Joshua.

3. Testimony of Lonnie at trial reflecting that on the night of the accident, when Joshua expressed concern about insurance coverage, Lonnie made the comment, "my name is on the title also."
4. An affidavit signed by Lonnie approximately nine months after the accident stating he was a co-owner of the vehicle and providing his insurance policy information for purposes of coverage for potential liability.[6]
5. A letter from Farm Bureau, Lonnie and Joshua's insurer, affirming coverage for Lonnie for the accident, but only under an umbrella policy.

After reviewing the record and reading the cases upon which defendants rely, we do not feel this is the type of situation the legislature was trying to protect under section 321.493(2). The purpose of the exception under section 321.493(2) is to avoid the imposition of liability upon the prior owner merely for failing to transfer the title certificate to the new owner. *Weber*, 658 N.W.2d at 94. Therefore, section 321.493 places civil liability on all consenting owners "except those who, but for a defective or incomplete transfer of title, would have no ownership interest at all." *Id*.

> The exception also protects an innocent third party from the careless operation of a motor vehicle and makes the owner responsible for the negligence of one to whom the owner entrusted its operation. Such laws are meant to protect injured persons against the financial irresponsibility of drivers. The 321.493 exception removes the problem of registration of the certificate of title, but it imposes a minimum threshold of a bona fide sale or transfer. Section 321.493 requires the court to determine whether there has been a bona fide sale or transfer and to discount the effect of the registration of the vehicle for purposes of establishing liability.

Id. (internal quotations and citations omitted).

[6] The affidavit contained no allegations of limited ownership or any other information regarding a transfer of ownership.

The appellees point out that the cases cited by the appellants are cases in which there was unequivocal action by a seller to make a complete transfer of interest in the vehicle. In the instant case, we are not dealing with a mere defective or incomplete transfer of title. Here, Lonnie knew he had to be a co-owner for the sale to be approved; signed the motor vehicle purchase agreement; signed the application for new title as an owner under penalty of perjury; attempted to avoid certain tax consequences; and made damaging admissions after the accident. We conclude this is not the type of situation section 321.493(2) intended to protect.

We find the district court correctly interpreted section 321.493(2) under the unique facts of this case. After a thorough review of the record and defendants' argument set forth on appeal, we are unable to determine that a *bona fide* transfer of interest occurred with regard to the vehicle in question. As such, we affirm the court's decision that defendants are co-owners of the vehicle and may both be liable for damages caused by the vehicle. Iowa Code § 321.493(1)(a). We find no reversible error here.

B. Exclusion of the Evidence

Defendants argue the district court abused its discretion by excluding relevant and material evidence of Lonnie's transfer of interest in the vehicle, and thereby improperly substituted its judgment for what should have been a jury determination as to whether a *bona fide* transfer occurred. Specifically, defendants claim the jury should have been allowed to consider evidence pertaining to whether a transfer of Lonnie's interest had occurred and whether such transfer was done in good faith, without fraud or unfair dealing.

Prior to trial, plaintiffs filed a motion in limine seeking to exclude evidence of Lonnie's transfer of his interest in the vehicle to Joshua. Defendants resisted the motion. The court requested defendants present their evidence of the transfer outside the presence of the jury in the form of an offer of proof to determine whether defendants' objections were valid before allowing certain testimony to be presented to the jury.

The court allowed defendants to present extensive exhibits and testimony in their offer of proof. At the conclusion of defendants' offer of proof, plaintiffs moved for directed verdict as to the issue of transfer of Lonnie's interest in the vehicle. The court ruled in favor of plaintiffs' motion and found as a matter of law that both Lonnie and Joshua were owners of the vehicle involved in the accident:

> [W]e have been making the same argument for several weeks now. The Court has read all the cases stated. I don't think I have ever given any indication to you that I felt that your arguments had validity. I think my rulings have been consistent throughout that I did not hear any evidence of the bona fide transfer. I have listened to extensive, very extensive offer of proof. I have listened to argument after argument.
>
> It is still my belief that I'm going to now rule that at the time of the accident, the Court is finding as a matter of law, at the time of the accident each defendant, Joshua Muxfeldt and Lonnie Muxfeldt, were co-owners of the vehicle that was involved in the accident and that there was no further transfer of the vehicle after the time that the vehicle was transferred from the Harlan Auto Mart to both co-owners, Joshua and Lonnie Muxfeldt.
>
> There is no evidence that there was a bona fide transfer and I am going to rule as a matter of law that each of the co-owners were owners of the vehicle at the time of the accident.
>
> I don't think there is any other argument to be made. I think we have heard it over and over and over again.

Therefore, no evidence of the transfer was submitted to the jury.

An offer of proof serves both to give the trial court a more adequate basis for its evidentiary ruling and to make a meaningful record for appellate review.

Brooks v. Holtz, 661 N.W.2d 526, 529 (Iowa 2003). A meaningful record for appellate review exists when the court does not have to speculate on the evidence sought to be introduced. *Id*. Such a record is necessary so the reviewing court does not have to base error on speculation as to the answers that would have been given to questions had the questions been asked. *State v. Lange*, 531 N.W.2d 108, 114 (Iowa 1995). Defendants' offer of proof in this case accomplished its intended purpose and was not deficient. We have adequate evidence to review and error is therefore preserved.

The admission or exclusion of evidence of the transfer rests largely in the discretion of the district court since it had the opportunity to examine the exhibits and hear the witness testimony. A ruling on the admissibility of evidence will not be interfered with upon appeal except upon a clear showing of abuse of discretion. The district court correctly sustained plaintiffs' objections by determining the evidence offered was irrelevant. Defendants presented the court with extensive evidence as to the issue of the transfer of Lonnie's interest. The court heard arguments of the issue on summary judgment motions, motions in limine, at trial and in the offer of proof. We have reviewed the defendants' arguments on appeal, which were also raised to the district court. Under the unique factual circumstances of this case, we do not find the district court erred in determining as a matter of law that a transfer of Lonnie's interest had not occurred. The district court did not abuse its discretion by excluding evidence of the transfer to the jury.

IV. Conclusion

Having considered all issues raised on appeal, we affirm the district court's order in this case.

AFFIRMED.