

## SECOND DIVISION

[ G.R. No. 214122, June 08, 2016 ]

**AUTOZENTRUM ALABANG, INC., PETITIONER, VS. SPOUSES MIAMAR A. BERNARDO AND GENARO F. BERNARDO, JR., DEPARTMENT OF TRADE AND INDUSTRY, ASIAN CARMAKERS CORPORATION, AND BAYERISCHE MOTOREN WERKE (BMW) A.G., RESPONDENTS.**

### D E C I S I O N

**CARPIO, ACTING C.J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the Decision dated 30 June 2014<sup>[2]</sup> and Resolution dated 4 September 2014<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 127748, which affirmed the Decision dated 30 April 2012<sup>[4]</sup> of the Department of Trade and Industry (DTI).

#### The Facts

On 12 November 2008, respondents Spouses Miamar A. Bernardo and Genaro F. Bernardo, Jr. (Spouses Bernardo) bought a 2008 BMW 320i sports car, in the amount of P2,990,000, from petitioner Autozentrum Alabang, Inc. (Autozentrum), a domestic corporation and authorized dealer of BMW vehicles. Autozentrum was authorized to deliver a brand new car to Spouses Bernardo.<sup>[5]</sup>

On 12 October 2009, Spouses Bernardo brought the car to BMW Autohaus, the service center of respondent Asian Carmakers Corporation (ACC), because its ABS brake system and steering column malfunctioned. On 26 October 2009, six days after the car's release, Spouses Bernardo returned the car to BMW Autohaus due to the malfunctioning of the electric warning system and door lock system. Sometime in March 2010, the car was brought again to BMW Autohaus because its air conditioning unit bogged down. BMW Autohaus repaired the car under its warranty.

In September 2010, Spouses Bernardo brought the car to BMW Autohaus, under an insurance claim, for the replacement of its two front wheels due to the damage of its wishbone component. BMW Autohaus performed the repairs and discovered that one of the rear tires did not have Running Flat Technology (RFT), when all of its tires should have RFT. Upon being informed, Autozentrum replaced the ordinary tire with an RFT tire.

On 13 January 2011, Spouses Bernardo brought the car to ACC because the car's fuel tank was leaking. ACC replaced the fuel tank without cost to the Spouses Bernardo. On 17 January and 26 January 2011, Spouses Bernardo sent letters to Autozentrum, demanding for the replacement of the car or the refund of their

payment.

In his letter dated 29 January 2011,<sup>[6]</sup> Autozentrum's Aftersales Manager Ron T. Campilan (Campilan) replied that the car purchased by Spouses Bernardo was certified pre-owned or used, and that Autozentrum's legal department was still examining their demand.

On 24 February 2011, Spouses Bernardo filed a complaint for refund or replacement of the car and damages with the DTI against respondents Autozentrum, ACC, and Bayerische Motoren Werke (BMW) A.G. for violation of Article 50(b) and (c), in relation to Article 97, of the Consumer Act of the Philippines or Republic Act No. (RA) 7394.

In their Supplemental Complaint dated 23 September 2011, Spouses Bernardo alleged that they brought the car again to Autozentrum after the electrical system and programming control units malfunctioned on 4 June 2011. The car was released to them five days later, but was towed to Autozentrum on 8 August 2011, because its engine emitted smoke inside the car. Autozentrum has custody of the car until now.

### **The DTI Ruling**

In a Decision dated 30 April 2012, DTI Hearing Officer Maria Fatima B. Pacampara (Hearing Officer) ruled that Autozentrum violated the Consumer Act of the Philippines particularly the provisions on defective products and deceptive sales. In concluding that the car was defective, the Hearing Officer considered that the major malfunctions in the car do not usually happen in such a short period of usage, and Autozentrum did not present proof that the malfunctions were caused by ordinary wear and tear.

The Hearing Officer further held Autozentrum liable for deceptive sales because the car was not brand new at the time of sale, contrary to what Autozentrum represented to Spouses Bernardo. However, the Hearing Officer exculpated ACC and BMW, since there was no proof that the defects were due to design and manufacturing, and they were not privy to the sale of the car.

The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, this Honorable Office finds in favor of the Complainant. The Respondent Autozentrum, having violated the provisions of the Consumer Act particularly on defective products and deceptive sales act, is hereby ordered to:

1. To pay an administrative fine of ONE HUNDRED SIXTY THOUSAND PESOS (Php160,000.00) and the additional administrative fine of not more than One Thousand Pesos (Php1,000.00) for each day of continuing violation, at the DTI-NCR Cashier's Office at the 12<sup>th</sup> Floor, Trafalgar Plaza, HV Dela Costa St., Salcedo Village, Makati City;
2. To refund, in favor of the Complainant, the purchase price of the subject vehicle [in the] amount of Two Million Nine Hundred and Ninety Thousand Pesos (Php2,990,000.00) for the amount of the memory stick

[sic] bought from the Respondent.

SO ORDERED.<sup>[7]</sup>

In a Resolution dated 14 September 2012, the DTI Appeals Committee affirmed the findings of the Hearing Officer, but modified the amount to be reimbursed to Spouses Bernardo taking into account the depreciation of the car, as follows:

WHEREFORE, premises considered, the instant appeal is hereby dismissed. The decision finding respondent to have violated the provisions of the Consumer Act is affirmed with modification in paragraph 2 thereof. In view of the fact that the complainants had made use of the vehicle for two (2) years, the Committee modifies par. 1 of the dispositive portion of the decision pursuant to the case entitled Sps. Eslao vs. Ford Cars Alabang, Adm. Case No. 07-43. Said decision was appealed to the Court of Appeals through petition for certiorari (CA-G.R. SP No. 111859) and Supreme Court through petition for review on certiorari (Ford Cars Alabang vs. Sps. Ike and Mercelita Eslao, et al. (G.R. No. 194250) wherein the Court resolves to deny the petition for failure to show any reversible error in the challenged resolution. The decision dated 11 March 2009 in Adm. Case No. 07-43 which was partly modified in the Resolution dated 1 October 2009 of the DTI-Appeals Committee was then fully implemented. On that basis, the Committee modifies par. 2 of the dispositive portion of the assailed decision to read as follows:

2. To reimburse the total purchase price of the subject BMW 320i unit less the beneficial use of the vehicle.

Record shows that complainant already used the vehicle for two (2) years before the filing of the complaint. In this regard, the Committee deems it proper and reasonable to apply COA Circular No. 2003-07 dated 11 December 2003 entitled Revised Estimated Useful Life in Computing Depreciation for Government Property. By analogy, such circular provides the basis for computing the depreciation value of a vehicle. Under par. 4 of the said Circular, a residual value equivalent to 10% of the acquisition cost/ appraised value shall be deducted before dividing the same by the Estimated Useful Life. Annex "A" thereof provides that the Estimated Useful Life (in years) of motor vehicles is seven (7) years.

Thus, the complainant is entitled to the reimbursement, computed as follows:

Acquisition cost x 10%

Php2,990,000.00 x 10% = Php299,000.00 (Residual Value)

Acquisition cost less the residual value

Php2,990,000.00 - Php299,000.00 = Php2,691,000.00

Php2,691,000.00/7 years (estimated useful life)=  
Php384,428.57

(depreciated value per  
year)

Depreciated value x the number of beneficial use  
Php384,428.57 x 2 (the no. of years vehicle was used before  
filing of the complaint)= Php768,857.14

Acquisition Cost - Depreciation value for 2 years  
Php2,990,000.00 - Php768,857.14 = Php2,221,142.90  
(remaining value of the  
vehicle)

The complainant shall be reimbursed the amount of two million two hundred twenty one thousand one hundred forty two pesos and ninety centavos (Php2,221,142.90), however, the subject vehicle shall be returned to the respondent.

SO ORDERED.<sup>[8]</sup>

Hence, Autozentrum filed an appeal with the CA.

### **The Decision of the CA**

In a Decision dated 30 June 2014, the CA ruled in favor of Spouses Bernardo. The CA found that the car was defective and not brand new. Thus, the CA held that Autozentrum should be liable under Article 1561, in relation to Article 1567, of the Civil Code, and not under Articles 97 and 98 of RA 7394. The CA ruled that a two-year depreciation value should not be deducted from the purchase price of the car, since Autozentrum did not submit proof of depreciation.

The CA also held Autozentrum liable for deceptive sales under Article 50(c) of RA 7394, because it represented an altered and second-hand vehicle as a brand new one. The dispositive portion of the Decision reads:

WHEREFORE, finding the petition for certiorari bereft of merit, the same is hereby DISMISSED. The assailed resolution of the DTI is hereby AFFIRMED with MODIFICATION in that as regards the amount of refund/reimbursement of the purchase price of the subject vehicle, petitioner is hereby ORDERED to pay the full amount of TWO MILLION NINE HUNDRED NINETY THOUSAND PESOS (Php2,990,000.00).

SO ORDERED.<sup>[9]</sup>

In a Resolution dated 4 September 2014, the CA denied the motion for reconsideration filed by Autozentrum.

Hence, this petition.

### **The Issues**

Autozentrum raises the following issues for resolution:

- I. THE HONORABLE ADJUDICATING OFFICER GRAVELY ABUSED HER DISCRETION AND/OR EXCEEDED HER AUTHORITY IN RULING THAT THE PETITIONER VIOLATED ARTICLE 97 OF THE CONSUMER ACT OF

THE PHILIPPINES WHEN THE LAW AND EVIDENCE CLEARLY SHOW IT DID NOT.

- II. THE HONORABLE ADJUDICATING OFFICER GRAVELY ABUSED HER DISCRETION IN RULING THAT THE PETITIONER HAD VIOLATED ART. 50 OF THE CONSUMER ACT OF THE PHILIPPINES (R.A. 7394) ON PROHIBITION AGAINST DECEPTIVE SALES ACTS OR PRACTICES WHEN THE FACTS OF THE CASE POINT THAT IT DID NOT.
- III. THE HONORABLE ADJUDICATING OFFICER GRAVELY ABUSED HER DISCRETION AND/OR EXCEEDED HER AUTHORITY IN ORDERING SOLELY THE PETITIONER TO REFUND THE ENTIRE PURCHASE PRICE OF THE SUBJECT VEHICLE.
- IV. ASSUMING ARGUENDO THAT THE PETITIONER HAS INDEED VIOLATED THE SAID ARTS. 97 AND/OR 50 OF THE CONSUMER ACT OF THE PHILIPPINES, THE HONORABLE ADJUDICATING OFFICER [GRAVELY] ABUSED HER DISCRETION AND/OR EXCEEDED HER AUTHORITY IN IMPOSING THE AMOUNT OF THE PENALTIES IMPOSED.
- V. THE OFFICE OF THE DTI SECRETARY THROUGH THE APPEALS COMMITTEE COMMITTED [AN] ERROR IN AFFIRMING THE DECISION OF THE ADJUDICATING OFFICER.
- VI. THE COURT OF APPEALS COMMITTED AN ERROR IN AFFIRMING WITH MODIFICATION THE RESOLUTION/DECISION OF THE OFFICE OF THE DTI SECRETARY AND IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION.<sup>[10]</sup>

### **The Ruling of the Court**

The petition has no merit.

Spouses Bernardo allege that Autozentrum violated Article 50(b) and (c), in relation to Article 97, of RA 7394, when it sold to them a defective and used car, instead of a brand new one. Autozentrum, however, claims that Spouses Bernardo failed to prove the elements of deceit or misrepresentation under Article 50, and injury under Article 97.

The relevant provisions of RA 7394 or the Consumer Act of the Philippines are:

Article 50. *Prohibition Against Deceptive Sales Acts or Practices.* - A deceptive act or practice by a seller or supplier in connection with a consumer transaction violates this Act whether it occurs before, during or after the transaction. An act or practice shall be deemed deceptive whenever the producer, manufacturer, supplier or seller, through concealment, false representation of fraudulent manipulation, induces a consumer to enter into a sales or lease transaction of any consumer product or service.

Without limiting the scope of the above paragraph, **the act or practice**