

IN THE COURT OF COMMON PLEAS IN THE STATE OF DELAWARE  
IN AND FOR KENT COUNTY

LISA LYNETTE IRVING, )  
 ) C.A. No. CPU5-11-000582  
 )  
 Appellant, )  
 Defendant-Below, )  
 v. )  
 )  
 ANTHONY C. HARRISON, )  
 )  
 Appellee, )  
 Plaintiff-Below. )

Ms. Lisa Lynette Irving  
253 E. Constitution Drive  
Smyrna, DE 19977  
*Pro Se* Appellant

Mr. Anthony C. Harrison  
4248 Gun & Rod Club Road  
Houston, DE 19954  
*Pro Se* Appellee

**DECISION AFTER TRIAL**

Appellant, Defendant-Below, Lisa Lynette Irving (“defendant”), has filed a civil appeal with this Court for a trial *de novo* from a final order of the Justice of the Peace Court. Appellee, Plaintiff-Below, Anthony C. Harrison (“plaintiff”), contends that he is entitled to a judgment against the defendant for insurance proceeds that she received for a vehicle he was purchasing from her, less the balance still due on his purchase price for the vehicle. The defendant contends that she is entitled to keep the insurance proceeds for the vehicle because she and the plaintiff were involved in a lease to purchase agreement and the plaintiff did not pay the full purchase price for the vehicle prior to totaling it. Following trial for this matter, the Court enters judgment for the plaintiff in

the amount of \$6,832.00, plus pre and post judgment interest at the legal rate of 5.75% per annum from October 27, 2010, and court costs.

### **FACTS**

Appellee, Plaintiff-Below, Anthony C. Harrison (“plaintiff”), entered into a lease to purchase agreement (“agreement”) with Appellant, Defendant-Below, Lisa Lynette Irving (“defendant”), for a 2001 S430 Mercedes-Benz (“Benz”). The agreement provided that the plaintiff would pay the defendant \$1,000.00 per month to lease the Benz and, of that amount, the defendant would apply \$650.00 towards the total sales price of the vehicle. The total sales price for the vehicle was \$17,500.00 and could be paid in full at any time during the lease. Additionally, the agreement provided that “every attempt” would be made by the plaintiff to obtain financing for the “sales price” of \$17,500.00. If the plaintiff missed any payments, he had the obligation to return the Benz “in the same condition that the car was received in.” Although the agreement did not have an explicit termination date, it would have automatically terminated either (1) at the end of twenty-seven months, when the \$17,500.00 purchase price would have been satisfied by the application of the \$650.00 amount taken from each lease payment or (2) when the plaintiff acquired outside financing and paid the purchase price in full. The defendant continued to keep and pay for automobile insurance on the Benz as she kept the title of the vehicle in her name and continued to make payments on a preexisting lien on it.

After executing the agreement, the plaintiff took possession of the Benz, drove it and made payments pursuant to the agreement for twenty-two months. During that time, he had three accidents with the vehicle. Although the plaintiff claims that the accidents

were caused by latent defects with the Benz, he never attempted to return the vehicle and terminate the agreement after he became aware of the defects.

The plaintiff's last accident with the Benz resulted in the vehicle's automobile insurance carrier totaling the vehicle. After applying her insurance deductible and deducting necessary fees, the defendant obtained insurance proceeds totaling \$10,032.00 for the vehicle, on or about October 27, 2010. The plaintiff made demand on the defendant for \$15,000.00 on October 14, 2010, when he filed an action in the court-below against the defendant seeking an award of damages for that amount.

The plaintiff contends that he is entitled to the insurance proceeds for the Benz, less the balance still due on the purchase price for the vehicle. The defendant contends that she is entitled to keep the insurance proceeds for the vehicle because the plaintiff never paid the full purchase price for the Benz prior to totaling it. In this regard, the defendant argues that when the insurance company totaled the vehicle, she and the plaintiff were still involved in a lease that terminated with the destruction of the Benz.

## **DISCUSSION**

### **A. The Nature of the "Agreement"**

The main issue before the Court is whether the agreement was a lease or an installment sales contract. If it was a lease, the plaintiff had no continuing interest in the Benz when it was totaled and the defendant keeps the entire amount of the insurance proceeds. If the agreement was an installment sales contract, the defendant is only entitled to the balance due for the Benz as of the date it was totaled and the plaintiff is entitled to the remaining balance of the insurance proceeds.

While the agreement between the plaintiff and the defendant purports to be a lease for the Benz, both the terms of the agreement and the conduct of the parties indicate that the arrangement was actually a lease to purchase arrangement or installment sales contract. *See generally Henry v. Nissan Motors Acceptance Corporation*, 1998 WL 961759, at \*1 (Del. Super. 1998) (describing an installment sales contract). In determining from the facts whether a true lease exists as opposed to a sale or other security interest, the court must “look beyond the face of the agreement and view the nature of the transaction in its entirety.” *Computer Sciences Corp. v. Sci-Tek, Inc.*, 367 A.2d 658, 660 (Del. Super. 1976). Under the “objective theory” of contracts, the court must take into consideration both the terms of the agreement and how it functions in order to accomplish “the court's ultimate goal [of] determin[ing] the parties' shared intent.” *Sassano v. CIBC World Markets Corp.*, 948 A.2d 453, 462 (Del. Ch. 2008) (citations omitted).

The defendant contends that the agreement was a lease, however, the true test to determine the terms of any contract is “what a reasonable person in the position of the parties would have thought it meant.” *Lorillard Tobacco Co. v. American Legacy Foundation*, 903 A.2d 728, 739 (Del. 2006), quoting *Rhone-Poulenc Basic Chemicals Co. v. American Motorists Ins. Co.*, 616 A.2d 1192, 1196 (Del. 1992). To wit, the court must enforce the terms of the parties' mutual agreement by giving effect to the intention of the parties. *DCV Holdings, Inc. v. ConAgra, Inc.*, 889 A.2d 954, 961 (Del. 2005). In a prior case, this Court held that the type of “lease” involved in the instant case was, in fact, a security interest in the form of a lease. *See USA Fin. Services, LLC v. Young's Funeral Home, Inc.*, 2010 WL 3002063 at \*2 (Del. Com. Pl. 2010).

The Court finds that the parties' actions and terms of the agreement clearly indicate that the agreement was not a lease, but, was an installment sales contract with the defendant retaining a security interest in the Benz. The agreement provided a sales price for the Benz and gave two methods of payment. First, the agreement provided that the plaintiff would make "every attempt" to obtain financing for the sales price of the vehicle. Second, he could just continue to make regular payments pursuant to the agreement and \$650.00 of each payment would be applied to the balance due for the Benz until the sales price was paid in full. There was no formal termination date provided for the agreement, such as normally would be found in a lease. Instead, the only termination date contemplated for the agreement was when the sales price would be paid in full. The transaction into which the parties entered was an installment sales contract for which the defendant retained a security interest in the Benz by retaining the title for the vehicle. *See 6 Del. C. §1-203.*

#### **B. Distribution of the Insurance Proceeds**

Since it has been determined that the agreement was an installment sales contract, the defendant is only entitled to the portion of the insurance proceeds equal to the balance due from the plaintiff for the Benz as of the date it was totaled. The plaintiff is then entitled to the remainder of the insurance proceeds.

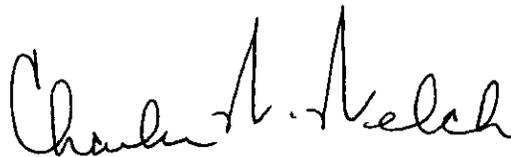
The agreement states that the plaintiff would pay a total sum of \$17,500.00 for the Benz. The plaintiff paid twenty-two monthly payments of \$1,000.00 each to the defendant before the vehicle was totaled. As per the terms of the agreement, \$650.00 of each monthly payment had to be applied to the principal owed on the car. Therefore, at the time that the plaintiff had the accident, which directly led to the car being totaled, he

had paid \$14,300.00 of the total purchase price and owed a remaining balance of \$3,200.00. The net insurance proceeds received by the defendant, after the deductible and payment of necessary fees, came to \$10,032.00. Therefore, from the \$10,032.00 in insurance proceeds, the defendant is entitled to retain the \$3,200.00 balance that was still due on the agreed upon purchase price for the Benz and the plaintiff is entitled to the remainder of the proceeds. In summary, of the \$10,032.00 in insurance proceeds, the defendant retains \$3,200.00, an amount equal to the balance still due on the car. The plaintiff receives the remaining amount of \$6,832.00, which was the fair market value for the Benz at the time the vehicle was totaled, less the balance he still owed on the car, the insurance deductible on it and all necessary fees charged by the car's insurance carrier.

### **CONCLUSION**

As a result of the Court's finding of fact, which is based upon the entire record, including all direct and circumstantial evidence and all the references therefrom, and the Court's above referenced conclusions of law, the Court enters judgment in favor of the plaintiff and against the defendant in the amount of \$ 6,832.00, plus pre and post judgment interest at the legal rate of 5.75% per annum from October 27, 2010 (the date that the defendant received the insurance proceeds), and court costs.

**IT IS SO ORDERED this 3<sup>rd</sup> day of January, 2012.**



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CHARLES W. WELCH  
JUDGE