

ODERIONG v. ADELBAI

ODERIONG and SEBAL, Appellants
v.
JOHANES ADELBAI and OTONG, Appellees
Civil Action No. 291
Trial Division of the High Court
Palau District
March 4, 1965

In previous action involving same parties, Palau District Court held that plaintiff was misled by one of defendants herein in transactions regarding sale of jeep. Jeep was awarded to second defendant herein and plaintiff now

seeks to recover parts he put into jeep when he thought he owned it outright. The Trial Division of the High Court, Chief Justice E. P. Furber, held that parts are still property of plaintiff and must be returned to him unless present owner of jeep makes other arrangement satisfactory to plaintiff.

Affirmed as modified.

1. Motor Vehicles-Parts

Since question of parts attached to automobile is foreign to local custom, matter is governed by rules of common law. (T.T.C., Sec. 22)

2. Motor Vehicles-Parts

Where parts are placed upon automobile with no intention of transferring ownership of parts, they may be owned separately and distinct from automobile itself and do not necessarily become property of person owning automobile.

3. Motor Vehicles-Parts

Where parts are placed upon automobile with no intention of transferring ownership of parts, they do not constitute accessions to automobile.

4. Judgments-Right of Redemption

Where court in previous related case allowed party right of redemption of automobile, right could only be exercised within reasonable time after former judgment.

FURBER, *Chief Justice*

OPINION

This is an appeal from decision of the Palau District Court in its Civil Action No. 911 concerning the same jeep involved in Palau District Court Civil Action No. 780. Both of these actions arose out of a series of transactions in which it is apparent that the defendant Otong seriously misled, if he did not deliberately deceive, both the plaintiff Johannes Adelbai and the defendant Oderiong and failed to fulfil his obligations to either of them. As a result, a most confusing situation developed as to the rights of Johannes and Oderiong in the jeep in question.

The basic question of the ownership of the jeep was decided against Johannes and in favor of Oderiong in Civil Action No. 780, but the question of any allowance or ad-

justment for the parts put on it by Johanes when he thought he owned the jeep outright, was left undecided, subject to possible separate action, except that Johanes was given a right to redeem the jeep on payment of two hundred seventy-one dollars and fifty cents (\$271.50). Nearly six months after that judgment, Civil Action No. 911 was brought by Johanes against Oderiong, Otong, and Sebal to decide the questions not covered by the earlier judgment, Sebal having in the meantime bought the jeep from Oderiong, although the exact details of the arrangement between them were not gone into in this action.

[1-3] The only questions of law of general interest involved here concern the details of the law applicable in the Trust Territory with regard to the matter of parts attached to an automobile. This is something so utterly foreign to local custom that it is believed it must, under Section 22 of the Trust Territory Code, be governed by the rules of common law. Under present conditions of standardization of equipment making parts readily removable and interchangeable, it is generally held in the United States that parts placed upon an automobile, where it is clear there was no intention to transfer ownership of the parts, may be owned separately and distinct from the automobile itself and do not necessarily, just because they are attached to it, become the property of the person owning the automobile. In other words, they do not under such circumstances constitute what are technically known as "accessions" to the automobile. 1 Am. Jur. 2nd, Accession and Confusion, § 8.

[4] . The District Court indicated it felt Oderiong had disregarded part of the judgment in Civil Action No. 780 by refusing to negotiate with Johanes for the sale of the jeep. It is clear, however, that Johanes never tendered the two hundred seventy-one dollars and fifty cents (\$271.50) which was required under the judgment in that case if he

were to redeem the jeep. Actually tendering the cash, which is what would be required for redemption, is quite different from just talking about purchase. This court therefore feels that no failure by Oderiong to comply with the former judgment has been shown and that he should not have to pay anything further in the matter beyond what he may owe under his agreement with Sebal because of the loss of or cost of the parts in question. This court further considers that Johaness' right of redemption could only be exercised within a reasonable time after the former judgment, and since he let this matter go so long without tendering the money due, his right of redemption expired, at or before the bringing of the present suit.

JUDGMENT

1. The judgment of the Palau District Court in its Civil Action No. 911 is modified to read as follows, effective this day, March 4, 1965:-

a. All of the jeep at one time registered as Palau District No. J-067-1961 and later as Palau District No. TA-267, is now owned by the defendant Sebal, except the parts described in paragraphs band c below.

b. The parts which the plaintiff Johannes had bought and put on the jeep after one Rekemesik had taken his parts from it, are still the property of plaintiff Johannes Adelbai. (These parts are enumerated in the District Court's findings of fact.)

c. The plaintiff Johannes Adelbai is also entitled as against defendant Sebal to possession of the parts which Johannes borrowed from Roman Tmetuchl and put on the jeep after Rekemesik had taken his parts from it. (These parts are also enumerated in the District Court's findings of fact.)

d. The defendant Sebal shall deliver to the plaintiff Johannes the parts described in paragraphs band c above,

within twenty (20) days after demand for them by Johannes, *unless* Sebal, before the expiration of said twenty (20) days, makes an arrangement satisfactory to Johannes to keep them. (Attention is invited to the fact that any such arrangement to be binding upon Roman Tmetuchl as to the parts loaned by him, would have to be agreed to by him, who is not a party to this action.)

e. The defendant Oderiong owes the plaintiff Johannes Adelbai nothing in connection with this jeep.

f. The plaintiff Johannes Adelbai is granted judgment against the defendant Otong in the sum of two hundred six dollars and thirty-one cents (\$206.31), together with interest thereon at six percent (6%) a year from January 17, 1962 (the date of the filing of the complaint in this action) amounting to thirty-eight dollars and sixty-eight cents (\$38.68), and fifty cents (50¢) costs, making a total of two hundred forty-five dollars and forty-nine cents (\$245.49).

g. This judgment shall not affect any rights Sebal may have against Oderiong because of the loss of or cost of the parts referred to in paragraphs band c, nor shall it affect Oderiong's right against Otong to any deficiency there may prove to be from the two hundred seventy-one dollars and fifty cents (\$271.50) determined in Civil Action No. 780 to be due Oderiong at the time he took possession of the jeep, if Oderiong has to allow Sebal so much because of these parts that it reduces the net amount received or due from Sebal for the jeep below two hundred seventy-one dollars and fifty cents (\$271.50).

2. As so modified, said judgment of the Palau District Court is affirmed.