

BAI ANIMAMU-v-DOUGLAS HATIGEVA

HIGH COURT OF SOLOMON ISLANDS
(Mwanosalua, J.)

Civil Case No. 30 of 2004

Hearing: 9 May 2005

Judgment: 26 January 2007

M. Ipo for the Plaintiff

No attendance by the Defendant

JUDGMENT

Mwanosalua, J: This is an assessment of damages following a default judgment. The Defendant in this case made oral representation to the Plaintiff that he was the owner of a 15 Seater Bus Reg. No. A8174. The Plaintiff purchased the bus upon reliance on this representation. Less than a year later the Plaintiff realized that the Defendant was not the owner of the bus when its true owner recovered it from him. The Plaintiff now claims the cost of the bus and consequential losses.

The Plaintiff bought the bus from the Defendant in about 13 November 2002. The purchase price was \$10,000.00. The owner recovered the bus from the Plaintiff on an unknown date around August 2003. The Plaintiff was in possession of the bus and was using it before it was removed from him.

The Plaintiff claims relief under three heads. These are damages for deceit limited to \$18,778.50; interest and costs.

The figure of \$18,778.50 for deceit was made up of the purchase price of the bus of \$10,000.00 and the sum of \$8,778.50 for the cost of spare parts, maintenance, vehicle licence and third party policy on the bus.

I accept that the Defendant made a statement to the Plaintiff that he was the owner of the bus. The Plaintiff acted on this statement to purchase the bus. But I think that the Plaintiff should do more to protect himself by seeking further confirming from the relevant Government Department on whether the Defendant was the registered owner of the bus. He did not do so. The bus needed spare parts when it was delivered to the Plaintiff. It was used by the Plaintiff as a public utility for about 8 months before it was removed from him by its true owner. The bus was old and its condition deteriorated soon after the Plaintiff took possession of it. I will only allow the Plaintiff to recover \$7,000.00 of the purchase price of the bus from the Defendant.

The Plaintiff spent the sum of \$8,778.50 on spare parts, maintenance, Third Party Policy and vehicle licence after he purchase the bus. He claims this amount as damages for deceit. I cannot see how costs of spare parts, labour and maintenance can be linked to the Defendant. There was no claim that the Defendant warranted the bus to be defect free.

The Plaintiff claims refunds of the fees he expended for vehicle licence and the Third Party Policy. He did not produce receipts to confirm the monthly payments which he made in respect of the vehicle licence. It is thus not possible to access the amount which he ought to be refunded for the unexpired portion of the vehicle licence. However, he is entitled to a refund of \$48.00 for 4 months "worth" of unexpired portion of the Third Party Policy.

I therefore assess damages at:

1)	\$7,000.00
2)	\$48.00
Total	\$7,048.00

The Defendant is to pay the Plaintiff's costs. Such costs are to be taxed if not agreed.

Francis Mwanalua
Puisne Judge