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STATE OF MICHIGAN

COURT OF APPEALS

SEP - 6 1990

DAVID DUNCAN,

Plaintiff-Appellant
and Cross-Appellee,

AUG 10 1990

v

No. 117346

STANDARD AUTO SALES and KENNETH L. BOHN, d/b/a K.B. UNDERWRITERS,

Defendants-Appellees
and Cross-Appellants.

Before: MacKenzie, P.J., and Sawyer and Doctoroff, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm, and accordingly do not reach defendants' claim on cross-appeal.

This case involves the terms and conditions of a policy of no-fault insurance issued on a used car which plaintiff purchased from defendant Standard Auto Sales on July 2, 1986. At the time of the sale, plaintiff discussed with a salesman how he should procure insurance for the vehicle. Plaintiff stated in his deposition that the salesman told him that he could provide insurance to plaintiff through defendant K.B. Underwriters to cover plaintiff for thirty days. Plaintiff further testified that it was his understanding that after the thirty-day period expired, he had the alternative of extending the coverage or going somewhere else to obtain insurance. Plaintiff stated that he paid $60 to Standard Auto Sales to obtain the insurance from K.B. Underwriters, and was issued a binder of insurance on the day he purchased the automobile. According to plaintiff, he returned to the dealership one or two days later to pick up his regular license plate. Plaintiff testified that he understood that his insurance was effective beginning the date he purchased the car or the date he received his license plate.

Some time prior to August 1, 1986, plaintiff purchased what he believed to be an AAA insurance policy to replace his K.B. Underwriters coverage. Plaintiff stated that he paid $20 or $30 for the insurance, which was to provide him with six months' coverage from August 1, 1986.

On August 7, 1986, thirty-six days after he purchased his car, plaintiff was involved in an automobile accident and was severely injured. When plaintiff discovered that the AAA insurance he had obtained was illegitimate, plaintiff commenced the instant action against defendants alleging that they agreed to procure insurance for plaintiff for a period which would have covered the accident, and that they breached their duty to plaintiff to obtain that insurance.

In granting defendants' motion for summary disposition, the trial court found, as a matter of law, that plaintiff intended to purchase thirty days' insurance coverage, starting on July 2, 1986, the date he purchased the automobile. The court's ruling was based on plaintiff's deposition testimony that he understood he would be covered for thirty days from the time he bought the car, as well as his attempt to obtain alternative coverage by August 1. The court therefore concluded that plaintiff's K.B. Underwriters policy expired on August 2, and that neither defendant could be held liable for injuries arising after that date.

On appeal, plaintiff contends that summary disposition was improperly granted because fact questions exist as to when insurance coverage was to commence and whether the policy was for more than thirty days' coverage. The contention is without merit. Plaintiff argues that a recorded payment of $50 to Standard Auto on July 11, 1986 was an insurance payment, so that coverage did not begin until that date. The evidence, however, supports a finding that the $50 was the final payment on his car, in the form of proceeds from a trade-in. Furthermore, there is no support in plaintiff's deposition testimony for the proposition that coverage would not begin until he made another

payment. Nor is there any evidence that plaintiff decided to purchase more than thirty days' coverage from K.B. Underwriters. Plaintiff's deposition testimony was clear that his policy was good for thirty days, at which time he would have to get additional coverage from K.B. or an alternative insurer. Plaintiff's testimony was also clear that he obtained what he believed to be replacement coverage by August 1. The trial court did not err in granting defendants' motion.

Plaintiff also contends that defendants should be estopped from denying insurance coverage to plaintiff because they conspired to induce him to believe that he was insured on August 7, the date of the accident. We disagree.

Estoppel arises where a party "induces another party to believe facts and the other party justifiably relies and acts on this belief and would be prejudiced if the first party is permitted to deny the existence of the facts." Clarkson v Judges' Retirement System, 173 Mich App 1, 14; 433 NW2d 368 (1988). Here, the record does not support the conclusion that plaintiff relied on defendants to provide him with insurance coverage for the date he was involved in the automobile accident. It is undisputed that by August 1, plaintiff had sought and purchased additional "insurance" which was supposed to be effective that day. It is further undisputed that on the date of the accident, he believed he was insured by AAA. Thus, on this record, the only inference that can be drawn is that plaintiff relied on the person who sold him the AAA "insurance," not defendants, for coverage on the date of his accident. We therefore reject plaintiff's estoppel argument.

Affirmed.

/s/ Barbara B. MacKenzie
/s/ David H. Sawyer
/s/ Martin M. Doctoroff