

ARCADIA FINANCIAL, LTD. v. SOUTHWEST-TEX LEASING CO.
78 S.W.3d 619 (Tex. App. 2002)

MACK KIDD, Justice.

Appellant Arcadia Financial, Ltd. (“Arcadia”) sued appellee Southwest-Tex Leasing Co., Inc. d/b/a Advantage Rent-A-Car (“Advantage”) for conversion, tortious interference with existing contracts, and a declaratory judgment as to the nature and priority of Arcadia’s security interests in four vehicles, to which Advantage claimed ownership. Following a bench trial, the trial court rendered judgment that Arcadia take nothing by its suit. By four issues presented, Arcadia appeals the trial court’s judgment, arguing that the trial court erred in concluding that Advantage owned the four vehicles, Arcadia acquired no rights in the four vehicles, and Arcadia has no standing to assert its claims against Advantage. We will affirm the judgment.

BACKGROUND

Arcadia is an independent financier of motor vehicles for retail customers of motor vehicle dealers. Advantage is in the business of renting cars to consumers and occasionally provides vehicles for sale to wholesalers from its fleet of used rental vehicles. Lone Star Used Cars (“Lone Star”) was a licensed motor vehicle dealer that sold used vehicles in Austin, many of which it purchased from Advantage. Francis C. Bashaw, III was the president of Lone Star and was responsible for the daily operations of Lone Star.

Advantage and Lone Star had a verbal agreement by which Advantage sold vehicles directly to Lone Star for cash. Before delivery, Advantage and Lone Star would agree on the make, model, year, and sales price of the vehicles. Advantage would then deliver the vehicles to Lone Star for inspection, which generally took two weeks. Once Lone Star accepted the vehicles, Advantage would order the titles to the vehicles from its corporate office. Advantage would generally receive the titles two to three weeks after the request was made. Once Advantage received the titles, Advantage would inform Lone Star and Lone Star would provide payment in exchange for the titles to the vehicles. This course of conduct continued over a period of approximately two years, during which time Advantage sold almost 200 vehicles to Lone Star and transferred the titles.

On February 11, 1998, Lone Star entered into a Master Dealer Agreement (the “Agreement”) with Arcadia. Under this Agreement, Arcadia agreed to finance retail installment contracts for Lone Star’s customers, provided Arcadia approved the creditworthiness of Lone Star’s customers, and Lone Star agreed to assign the retail installment contracts to Arcadia. The Agreement required Lone Star to submit to Arcadia “a certificate of title with any liens thereon released and an application to register ownership in favor of the [purported buyers and, correspondingly, Arcadia].” The Agreement also required that Lone Star warrant that “title to the purchased goods at the time of sale was vested in [Lone Star] free of all liens and incumbrances.”

Between July 4, 1998 and August 24, 1998, Lone Star purported to sell four of the vehicles that it had acquired from Advantage. Lone Star, however, failed to pay Advantage for these vehicles, and Advantage consequently never transferred the certificates of title for the four vehicles to Lone Star. Nevertheless, Lone Star and its customers executed retail installment contracts for the vehicles, and Lone Star assigned the contracts to Arcadia, pursuant to their Agreement. Before approving the transaction, Arcadia was not provided with the certificates of title, as Lone Star did not possess them. Instead, Lone Star provided letters of guarantee of title, representing to Arcadia that the original Texas certificates of title would be submitted within thirty days. Following Arcadia's review and approval of the customers, Lone Star completed the sale of the vehicles to its customers and Arcadia accepted assignment of the retail installment contracts and advanced the amount financed under the contracts to Lone Star, a total of \$56,410.86.

Shortly thereafter, Lone Star went out of business. Pursuant to the remedies provided by the Agreement, Arcadia demanded that Lone Star repurchase the retail installment contracts because Arcadia had not received the original certificates of title. When that attempt failed, Arcadia made demand on Advantage to relinquish possession of the original certificates of title so that Arcadia could perfect its security interests. Advantage refused Arcadia's demand.

Arcadia sued Advantage, alleging that Advantage interfered with Arcadia's retail installment contracts with the customers and that Advantage converted Arcadia's security interests in the vehicles. Arcadia also asked the trial court to determine the nature, extent, and priority of the parties' security interests in the four vehicles. The trial court rendered judgment that Arcadia take nothing on its claims. Arcadia subsequently requested findings of fact and conclusions of law, which the trial court filed. Arcadia now appeals the judgment.

DISCUSSION

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By its first issue, Arcadia argues that the trial court erred in concluding that (1) Lone Star never acquired ownership of the vehicles, (2) Lone Star could not transfer ownership of the vehicles to buyers in the ordinary course of business because the sales did not comply with the Certificate of Title Act (the "Act"), (3) there is no conflict between the Texas Business and Commerce Code (the "UCC") and the Act that would trigger the preemption provision of the Act, and (4) Arcadia's damage claims fail because no sales were made from Advantage to Lone Star.

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The crux of Arcadia's arguments is that the Certificate of Title Act conflicts with the requirements of the UCC, and because they conflict, the UCC should control. *See* TEX. TRANSP. CODE ANN. § 501.005 (West 1999) ("Chapters 1-9, Business & Commerce Code, control over a conflicting provision of this chapter."). Under the UCC, a sale of goods is complete once the seller "completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a

different time or place.” TEX. BUS. & COM. CODE ANN. § 2.401(b) (West 1994). The Act, on the other hand, provides: “A motor vehicle may not be the subject of a subsequent sale unless the owner designated in the certificate of title transfers the certificate of title at the time of the sale.” TEX. TRANSP. CODE ANN. § 501.071(a); *see also id.* § 501.073 (any sale made in violation of this chapter is void). According to Arcadia, the two statutes cannot be harmonized, and therefore the trial court erred in concluding that no conflict exists and in applying the requirements of the Act instead of the UCC to this case.

Arcadia argues that based on its interpretation of the UCC, ownership passed to Lone Star when Advantage delivered the vehicles to Lone Star. Then, when Lone Star’s customers purchased the vehicles, Lone Star transferred ownership of the vehicles to the customers for value in the ordinary course of business, and Advantage’s ownership interest in the vehicles terminated. Relying on section 2.403(a) of the Business and Commerce Code, Arcadia argues that because Lone Star was the owner of the vehicles at the time it sold the vehicles to the customers, the customers acquired all title that Lone Star, as the seller, possessed, even if the title was voidable. *See* TEX. BUS. & COM. CODE ANN. § 2.403(a). Those customers then entered into retail installment contracts, and the right to those contracts along with a first lien on the vehicles were transferred to Arcadia in exchange for cash.

By concluding that the UCC and the Act do not conflict and that the Act therefore controls the facts of this case, the trial court rejected Arcadia’s underlying premise. In other words, under the Act, Lone Star could not have acquired ownership of the vehicles if the corresponding certificates of title were not transferred at the time of the sale. And thus, Lone Star had no title to transfer to its customers.

Arcadia asks this Court to reverse the trial court’s conclusion and declare that a conflict exists between the Certificate of Title Act and the UCC. We need not do so, however, because before the trial of this case, the parties filed stipulations of fact with the trial court, one of which renders the issue of a conflict between the two statutes moot. The parties stipulated to the following:

Advantage and Lone Star had an ongoing verbal agreement by which Advantage sold vehicles directly to Lone Star for cash. Although the agreement was not reduced to writing, it was agreed and understood, and a course of conduct and dealing was established, that *the sale of any vehicle to Lone Star was contingent upon Advantage’s receipt of payment in full* from Lone Star. Advantage always retained the Original Texas Certificate of Title in its possession until payment was received, in full, from Lone Star. After Lone Star paid Advantage for the vehicles, Advantage would transfer the Original Texas Certificate of Title to reflect Lone Star as the new owner.

(Emphasis added.) According to this stipulation, the parties agreed that the sale of the vehicles *was not complete* until Advantage received payment in full from Lone Star. Accordingly, the trial court found that “[u]nder the terms of the agreement between Advantage and Lone Star, *no sale was completed* until such time as Advantage was paid for the vehicle and Advantage would transfer to [sic] original Texas Certificate of Title to Lone Star as the new owner.” (Emphasis

added.) Arcadia does not challenge this finding. Thus, even under the UCC, title to the vehicles would not pass until Advantage obtained payment in full, pursuant to the parties' agreement.

We, therefore, hold that the trial court did not err in concluding that Lone Star never acquired ownership of the vehicles. As between Advantage and Arcadia, no transfer of ownership of the vehicles occurred. We need not determine whether the trial court erred in concluding that no conflict exists between the UCC and the Act because even if this conclusion of law were incorrect, it would not require reversal if the controlling findings of fact support a correct legal theory. *Piazza*, 909 S.W.2d at 532.¹ Under the agreement between Lone Star and Advantage, no sale was completed until Advantage was paid in full. Thus, under the parties' agreement, Lone Star had not yet acquired ownership of the vehicles because it had not yet paid Advantage for them. Arcadia's first issue is overruled.

By its second issue, Arcadia argues that the trial court erred in failing to conclude that Arcadia had a valid and enforceable security interest in the vehicles and that Advantage did not have an enforceable security interest in the vehicles.

Any security interest claimed by Arcadia stems from its Agreement with Lone Star. As we have already held, however, the purported sale of the vehicles to Lone Star was incomplete because Lone Star failed to pay Advantage for the vehicles pursuant to their agreement. Because Lone Star never acquired ownership of the vehicles, it could not transfer a security interest in the vehicles to Arcadia. Lone Star could only transfer rights that it possessed. *See* TEX. BUS. & COM. CODE ANN. § 3.203(b) (West Supp. 2002) (transfer of instrument vests in transferee any right of transferor to enforce instrument); *id.* § 9.203(b) (security interest attaches when (1) debtor signs security agreement containing description of collateral; (2) secured party gives value for security interest; and (3) debtor obtains rights in collateral). Thus, Lone Star never acquired rights in the vehicles, and therefore, could transfer none to Arcadia. Arcadia's second issue is overruled.

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CONCLUSION

Having overruled all of Arcadia's issues on appeal, we affirm the trial court's judgment.

¹ We note that in *Bank One Texas N.A. v. Arcadia Financial Ltd.*, 219 F.3d 494 (5th Cir. 2000), the Fifth Circuit considered similar facts involving some of the same parties to this dispute, including Arcadia and Lone Star. In that case, the court determined that there was no conflict between the UCC and the Act that would trigger the preemption provision in the Act. *Id.* at 497 n.3....