

SUPREME COURT OF SOUTH CAROLINA

Partain v. Upstate Automotive Group, 386 S.C. 488

689 S.E.2d 602 (2010) · No. No. 26768 · Decided February 8, 2010

SUMMARY

The Supreme Court of South Carolina considered whether a consumer's South Carolina Unfair Trade Practices Act claim alleging a vehicle dealership's bait-and-switch conduct was subject to a broad arbitration clause. The court held that although the claim appeared to fall within the clause's language, the alleged substitution of a different vehicle was an outrageous and unforeseeable tort that the parties did not contemplate submitting to arbitration. The court reversed the South Carolina Court of Appeals.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam
JURISDICTION	South Carolina
DECIDED	February 8, 2010
DOCKET	No. 26768
DISPOSITION	reversed
PROCEDURAL POSTURE	Petitioner sought certiorari review of the South Carolina Court of Appeals' decision reversing the circuit court's denial of Upstate Automotive Group's motion to dismiss based on an arbitration agreement.
STANDARD OF REVIEW	Whether a claim is subject to arbitration is reviewed de novo, although factual findings by the circuit court will not be reversed if supported by any evidence.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of South Carolina; precedential.
PARTIES	Amos Keith Partain v. Upstate Automotive Group

TOPICS

- consumer protection
- contracts
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Partain's bait-and-switch claim was within the scope of the sales agreement's broad arbitration clause.
2. Whether alleged fraudulent and outrageous conduct that was unforeseeable to a reasonable consumer falls outside the parties' contemplation and therefore is not subject to arbitration despite broad arbitration language.

HOLDINGS

1. Partain's factual allegations were encompassed by the language of the broad arbitration clause because they concerned negotiations leading to the sale and the terms and provisions of the sale.
2. A broad arbitration clause does not apply to alleged outrageous tortious conduct that was clearly outside the parties' contemplation and unforeseeable to a reasonable consumer in the context of normal business dealings. The alleged bait-and-switch conduct therefore was not subject to arbitration.

KEY QUOTATIONS

"Because we find the alleged conduct was not within the contemplation of the parties when they entered into the agreement, we find that the arbitration clause does not apply and we reverse the Court of Appeals opinion to the contrary." (490)

"Because even the most broadly-worded arbitration agreements still have limits founded in general principles of contract law, this Court will refuse to interpret any arbitration agreement as applying to outrageous torts that are unforeseeable to a reasonable consumer in the context of normal business dealings." (494)

"After all, arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which he has not agreed to submit." (494)

"Only where the claim presented was clearly not within the contemplation of the parties will a court decline to enforce an otherwise proper arbitration agreement." (495)

FACTUAL BACKGROUND

Partain negotiated with Upstate Automotive Group to purchase a 2006 Nissan truck at a specified price and test-drove a particular truck. When he returned to complete the transaction, he discovered that the truck presented to him was allegedly not the same vehicle he had negotiated to buy or test-driven. He sued under the South Carolina Unfair Trade Practices Act, alleging a bait-and-switch scheme, and Upstate Auto sought dismissal based on an arbitration clause in the sales agreement.

PROCEDURAL HISTORY

Partain sued Upstate Automotive Group under the South Carolina Unfair Trade Practices Act, alleging a bait-and-switch vehicle transaction. Upstate Auto asserted an arbitration agreement and moved to dismiss. The circuit

court denied the motion and motion for reconsideration, but the Court of Appeals reversed. The Supreme Court of South Carolina granted certiorari and reversed the Court of Appeals.

DISPOSITION

reversed

CASES CITED

- Zabinski v. Bright Acres Associates, 346 S.C. 580, 553 S.E.2d 110 (2001)
- Gissel v. Hart, 382 S.C. 235, 676 S.E.2d 320 (2009)
- Aiken v. World Fin. Corp. of South Carolina, 373 S.C. 144, 644 S.E.2d 705 (2007)
- Long v. Silver, 248 F.3d 309 (4th Cir. 2001)
- Partain v. Upstate Automotive Group, 378 S.C. 152, 662 S.E.2d 426 (Ct. App. 2008)

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