

Decision No

AK45/87

29 SEP 1987

Reference No

MVD129/87

LIBRARY, 30 SEP

IN THE MATTERof the Motor Vehicle  
Dealers Act 1975ANDIN THE MATTER

of a dispute

BETWEENPurchaserANDDealerBEFORE THE AUCKLAND MOTOR VEHICLE DISPUTES TRIBUNALMessrs H T D Knight (Chairman)  
R G Lewis  
A E EntingHEARING at HAMILTON on the 15th day of July, 1987.APPEARANCESMr [REDACTED] in person  
Mr [REDACTED] for dealerDECISION

This complaint related to the sale and purchase of a 1969 Volkswagon Combi camper van which had been purchased on 5 December, 1986, for \$8,000.00. It was a Category D motor vehicle which had travelled 134,000 kilometres at the date of purchase.

There were two complaints made by the purchaser, firstly that the vehicle was described on the window notice as having a 1680 cc engine when the ownership papers showed it as having only a 1475 cc engine. However, there was no evidence available as to the actual size of the motor that was in the vehicle at the time of sale.

Although the change of engine should be recorded on the ownership papers, the Tribunal from its own experience is well

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29 SEP 1987

aware that this does not follow as a matter of course ~~LIBRARY~~, frequently the change is not noted. In fact, from the Tribunal's experience the majority of vehicles with engines that have been changed since the date they were first registered without the papers being noted are numerous.

The Tribunal is therefore not prepared to assume that the vehicle did not have a 1680 cc engine in it at the time of sale.

The purchaser's main complaint was the second complaint namely that the ownership papers showed the vehicle as a 1969 vehicle when the window notice described it as having first been registered in 1973. In actual fact, the vehicle had been first registered in New Zealand in 1973, it being an ex-overseas vehicle which had not been (as it should have been) recorded on the window notice.

The purchaser was unable to produce any difference in value between a vehicle of this mileage and type first registered in 1969 and one first registered in 1973. He said that he had been around licensees the day before the hearing and although they verbally told him there was at least \$2,000.00 difference between a 1969 vehicle and a 1973 vehicle, none of them were prepared to commit their opinion to writing.

He was not aware of any physical difference between a 1973 and a 1969 model vehicle.

The licensee's representative stated at the hearing that there was no physical difference between the models and that in their opinion there was not a difference in value arising from the year of the vehicle and they had therefore refused to compensate the purchaser for it.

Both the purchaser and the licensee agreed that the purchaser had already sold the vehicle before he was aware of the difference in year and he had actually traded it in on another vehicle as a 1973 Volkswagon Combi camper van. The purchaser said he was only allowed \$4,000.00 on the trade-in.

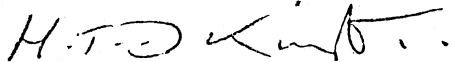
However, it is difficult for the Tribunal to take any evidence of value out of a trade-in figure. He stated that there was no reduction in value or request for a refund made by the licensee to whom he had sold the vehicle when it was discovered it was a 1969 vehicle rather than a 1973 vehicle. It had been traded as if it was a 1973 vehicle.

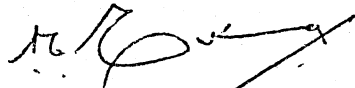
Having regard to the whole of the evidence and the Tribunal's own experience that these vehicles are sold mainly on the condition of each individual vehicle rather than anything else, the Tribunal is not satisfied that there is sufficient evidence before it as to the difference in value or any evidence to show that such difference in value would in fact be substantial.

The Act requires that any difference in value must be substantial before a remedy is available to the purchaser.

For these reasons, the purchaser's complaint is dismissed.

DATED at AUCKLAND this 5<sup>th</sup> day of August 1987.

  
H T D Knight  
(Chairman)

  
A E Enting  
(Member)

R G Lewis  
(Member)