

Alpha Trust (EDMS) BPK v Van Der Watt

Respondent had purchased a motor vehicle on hire purchase from appellant. At time of conclusion of contract, both parties bona fide believed appellant was owner of motor vehicle. Subsequently motor vehicle was then claimed by Company K & delivered to Co. K, as it appeared to be true owner of motor vehicle. Respondent then instituted a claim in provincial division against appellant for repayment of deposit & all monthly instalments paid by respondent to appellant. In a stated case appellant contended respondent was not entitled to cancellation of hire purchase agreement or entitled to repayment of purchase price but only to damages in amount of value of vehicle @ time of eviction which appellant was entitled to set off against balance due on hire purchase agreement. Provincial Division held in favour of respondent.

In an appeal

Held: It was not necessary for respondent ^{as purchaser} to cancel hire purchase agreement bet himself & appellant.

Held Because of eviction, respondent entitled to claim by *actio empti* repayment of purchase price & compensation for his damage from seller. He was ∴ entitled to repay^{ment} ^{of} portion of purchase price he had already paid.

Held: Respondent absolved from portion of purchase price he had not paid.