

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2006 CA 0381

JIMMY L. DEVILLE, SR.

VERSUS

JAMES CLINT WEBB

JLW
EJG

Judgment Rendered: December 28, 2006

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Trial Court Number 528,547

Honorable Timothy E. Kelley, Judge

Jimmy L. Deville, Sr.
Denham Springs, LA

In Proper Person
Plaintiff – Appellant

Joseph N. Lotwick
Baton Rouge, LA

Attorney for
Defendant – Appellee
James Clint Webb

BEFORE: KUHN, GAIDRY, AND WELCH, JJ.

WELCH, J.

In this action to rescind the sale of two jet skis and for damages, the plaintiff/appellant, Jimmy L. Deville, Sr. appeals a judgment rendered by the trial court in his favor in the amount of \$1,500.00, plus legal interest and costs. Based on our review of the record, we find no error and affirm the judgment of the trial court.

On June 26, 2004, Mr. Deville purchased two 1998 Yamaha jet skis (and the trailer to transport them) from Mr. Webb, the defendant, for \$6,000.00. Previously, Mr. Webb had no intention of selling the jet skis, which were inoperable, and was planning to have them repaired at False River Motor Sports. Mr. Deville's nephew, who was at Mr. Webb's residence when Mr. Webb was hooking the trailer to his truck, advised Mr. Webb that his uncle had expressed an interest in purchasing two jet skis.

Thereafter, Mr. Deville and his wife went to Mr. Webb's residence to look at the jet skis. Mr. Webb offered to sell the jet skis for \$6,000, but suggested that he first have them repaired, and then sell them to Mr. Deville for \$6,000.00, plus the cost of the repairs. However, Mr. Deville insisted on purchasing the jet skis in the condition they were in, even though he knew the jet skis did not start and had not been used since the prior summer.

Mr. Deville then brought the jet skis to False River Motor Sports for a "tune-up." After False River Motor Sports completed the work, Mr. Deville picked up the jet skis, and started riding them on False River, when the jet skis stopped working. Mr. Deville then brought the jet skis to a friend and mechanic, Mr. Jeremy Spillman. Mr. Spillman took the jet skis apart, and informed Mr. Deville that the engines of the two jet skis had to be completely rebuilt. Mr. Deville then brought the disassembled jet skis back to Mr. Webb and demanded a refund. Mr. Webb refused to return the purchase price and refused to accept the return of

the jet skis because they were in pieces. Mr. Deville then filed this suit for rescission of the sale and for damages.

On November 3, 2005, the plaintiff proceeded to trial against the defendant.

In oral reasons for judgment, the trial court found:

“[Mr. Deville was] very credible. ... I also have to say that Mr. Webb seemed very, very credible also. ... But I think what we have here is one where I just have to determine what the fair and right thing to do for both parties is. I will tell you with regard to any redhibitory claim for requiring the defendant to take back the jet skis, I don’t find that the requirements have been met with regard to that. The plaintiff did know at the time he purchased [the jet skis that] they were 1998 models. He knew that they needed some work, and he also knew that one of them had been smoking, because he had been informed of that. I believe he also knew that they hadn’t been run since the summer before. Again both gentlemen are very credible. I believe that Mr. Webb does owe Mr. Deville something with regard to this ... it seems to me that [Mr. Webb] was aware of maybe some more problems, but as he said[,] he is ... not a mechanic ... And I believe that ... when Mr. Deville purchased these [jet skis,] he realized he was getting a good deal, and he realized he was going to have to put a little bit of money into them to get them fixed up. ... The court believes that up to about a thousand dollars worth of repairs would have been something reasonable for him to expect with two different jet skis that he knew when he purchased [them,] were not in running order. Over and above that, however, I believe is – there was certainly an intent that for a reasonable repair price he would have been able to utilize these. As it stands he cannot utilize them. ... It is clear to the court that it is going to take approximately ... 1500 more dollars to put these back together, and get them running. I take that only from what is listed in the estimates ... So that being said, I am going to cast Mr. Webb in Judgment for \$1500.00 to pay over to Mr. Deville. Costs assessed against Mr. Webb and interest from the date of judicial demand.

On November 21, 2005, the trial court signed a judgment in favor of Mr. Deville in the amount of \$1,500.00, plus legal interest and costs. This appeal by Mr. Deville ensued. On appeal, Mr. Deville contends that the sum awarded by the trial court is insufficient to repair the jet skis.

After a thorough review of the record, we find that the trial court’s findings of fact and conclusions of law are fully supported by the evidence and that the record does not demonstrate that these factual findings and conclusions of law are clearly wrong or manifestly erroneous. Therefore, we affirm the trial court’s

judgment of November 21, 2005, in accordance with Uniform Rules -- Courts of Appeal, Rule 2-16.2(A)(5) and (8).

All costs of this appeal are assessed to the plaintiff/appellant, Jimmy L. Deville, Sr.

AFFIRMED.