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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1071

Filed 5 November 2024

Gaston County, No. 20 CVS 3390

JOE POPE and NIA SHANECE MARSH, Plaintiffs,

v.

IVUECARS, LLC, Defendant.

Appeal by defendant from judgment entered 21 December 2022 by Judge Lee W. Gavin in Gaston County Superior Court. Heard in the Court of Appeals 27 August 2024.

Klein & Sheridan, LC PC, by Benjamin Sheridan and Jed Nolan, for plaintiffs-appellees.

Round 2 Legal, by Ashley A. Crowder, for defendant-appellant.

ZACHARY, Judge.

Defendant iVueCars, LLC, appeals from a judgment entered following a bench trial in favor of Plaintiffs Joe Pope and Nia Shanece Marsh. After careful review, we remand for the entry of additional findings of fact and conclusions of law.

I. Background

This case arises out of Plaintiffs' purchase of a used Mercedes-Benz from

Defendant on 14 February 2020. Plaintiffs alleged that they experienced several problems with the vehicle over the ensuing months. Subsequent disagreements with Defendant over the responsibility for the expense of servicing and repairing the vehicle led to the present litigation.

On 28 September 2020, Plaintiffs filed a complaint against Defendant, alleging breaches of various warranties and contractual duties, violations of the federal Magnuson-Moss Warranty Act and the North Carolina Unfair and Deceptive Trade Practices Act, and common-law fraud and misrepresentation. On 4 December 2020, Defendant filed its answer, in which it denied each of Plaintiffs' claims. After Plaintiffs filed a motion to compel discovery on 11 March 2021, Defendant produced the requested discovery, and Plaintiffs withdrew their motion to compel.

On 20 August 2021, Plaintiffs filed an amended complaint, adding C.A.R.S. Protection Plus, Inc., ("C.A.R.S.") as a defendant. C.A.R.S. filed its answer on 4 October 2021, and Defendant filed its answer to Plaintiffs' amended complaint on 22 October 2021. In between the date on which it filed its initial answer and the date on which it filed its answer to Plaintiffs' amended complaint, Defendant retained new counsel.

Plaintiffs and C.A.R.S. reached a settlement and Plaintiffs voluntarily dismissed their claims against C.A.R.S. with prejudice on 3 May 2022. On 8 July 2022, Defendant moved for summary judgment. Defendant's motion came on for hearing on 31 October 2022; Defendant was represented at the hearing by counsel,

and its two managers were also present. At the conclusion of the hearing, the trial court denied Defendant's motion for summary judgment.

Defendant's counsel subsequently moved to withdraw from the case, and on 22 November 2022, Plaintiffs moved for a continuance to allow Defendant time to obtain new counsel. These motions came on for hearing on 28 November 2022, at which time the trial court observed that the matter had already been continued four times. Defendant's counsel explained that, although he had called between 10 and 15 times, emailed, and written two letters, his client "appear[ed] to have just dropped off the face of the Earth." After Defendant's counsel confirmed that his client was "aware that this would go forward on December the 12th whether [it had] an attorney or not[.]" the trial court granted Defendant's counsel's motion to withdraw, with the instruction that counsel remind Defendant of the scheduled trial date one final time before withdrawing.

On 12 December 2022, the matter came on for trial in Gaston County Superior Court. No attorney or member of the Defendant LLC appeared on Defendant's behalf. Plaintiffs waived their request for a jury trial, and the court proceeded with a bench trial. At the close of all evidence, Plaintiffs "move[d] for a directed verdict on this case." The trial court then asked Plaintiffs' counsel to deliver a closing argument, which he did.

After Plaintiffs' closing argument, the trial court announced in open court that it concluded that Defendant had breached its express and implied warranties and

violated the North Carolina Unfair and Deceptive Trade Practices Act. The court determined that the amount of Plaintiffs' actual damages was \$8,839.33, and tripled that amount, as allowed by statute, to reach \$26,517.99 in total damages. The court then requested that Plaintiffs' counsel submit a fee application and prepare a judgment for the court to review.

On 21 December 2022, the trial court entered judgment against Defendant.

The judgment reads, in its entirety:

A bench trial was held in the above-styled matter on December 12, 2022. The Plaintiffs, Joe Pope and Nia Marsh, appeared in person and by counsel. Defendant iVue Cars, LLC, did not appear. After hearing testimony and taking evidence from . . . Plaintiffs, [the] Court found that Defendant intentionally induced Plaintiffs to purchase a vehicle by offering a warranty that Defendant had no intention to honor and directed a verdict in favor of . . . Plaintiffs and against . . . Defendant on the counts of Breach of Express and Implied Warranties, the Magnuson-Moss Warranty Act, and [N.C. Gen. Stat.] § 75-1.1 Unfair or Deceptive Acts and Practices. The Court awarded . . . Plaintiffs eight thousand, eight hundred thirty-nine dollars and thirty-three cents (\$8,839.33) in compensatory damages, which was trebled pursuant to [N.C. Gen. Stat.] § 75-16 to the amount of \$26,517.99.

Wherefore, in accordance with the Court's verdict, it is hereby **ORDERED** that judgment be entered in favor of . . . Plaintiffs and against . . . Defendant. Plaintiffs' counsel [is] instructed to submit a fee affidavit to determine appropriate fees and costs awardable in this matter pursuant to [N.C. Gen. Stat.] § 75-16.1.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

Defendant timely filed notice of appeal.

II. Discussion

Defendant raises several issues on appeal, but the dispositive question is whether the judgment¹ fails to comply with Rule 52 of the North Carolina Rules of Civil Procedure. Because the judgment is insufficient under Rule 52, we remand for the entry of additional findings of fact and conclusions of law based upon the trial record.

A. Standard of Review

“We review an order entered by a trial court sitting without a jury to determine whether competent evidence supports the findings, whether the findings support the conclusions, and whether the conclusions support the judgment.” *Carolina Mulching Co., LLC v. Raleigh-Wilmington Inv’rs II, LLC*, 272 N.C. App. 240, 244–45, 846 S.E.2d 540, 544 (2020), *aff’d*, 378 N.C. 100, 861 S.E.2d 496 (2021).

B. Analysis

“In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon

¹ In its appellate brief, Defendant contends that “[a] motion for directed verdict and a directed verdict are not proper where the trial is before the judge sitting without a jury.” *Porter Bros., Inc. v. Jones*, 11 N.C. App. 215, 225, 181 S.E.2d 177, 183 (1971). However, notwithstanding Plaintiffs’ motion for directed verdict at the close of all evidence and the trial court’s statement that it “directed a verdict in favor of . . . Plaintiffs and against . . . Defendant[,]” the trial court properly rendered its judgment after the admission of all evidence and Plaintiffs’ closing argument at trial. We therefore do not treat the judgment from which Defendant appeals as an improper directed verdict. *Cf. Bracey v. Murdock*, 286 N.C. App. 191, 194, 880 S.E.2d 707, 709 (2022) (“Because motions are properly treated according to their substance rather than their labels, we treat [Plaintiffs’] motion for what it really was . . .”), *disc. review denied*, 384 N.C. 191, 884 S.E.2d 735 (2023).

and direct the entry of the appropriate judgment.” N.C. Gen. Stat. § 1A-1, Rule 52(a)(1) (2023). “The trial court is required to set forth the specific findings of the ultimate facts established by the evidence, admissions and stipulations which are determinative of the questions involved in the action and essential to support the conclusions of law reached.” *Carolina Mulching*, 272 N.C. App. at 245, 846 S.E.2d at 544 (cleaned up).

It is well established that this requirement is not a “mere technicality”:

Effective appellate review of an order entered by a trial court sitting without a jury is largely dependent upon the specificity by which the order’s rationale is articulated. Evidence must support findings; findings must support conclusions; conclusions must support the judgment. Each step of the progression must be taken by the trial judge, in logical sequence; each link in the chain of reasoning must appear in the order itself. Where there is a gap, it cannot be determined on appeal whether the trial court correctly exercised its function to find the facts and apply the law thereto.

Coble v. Coble, 300 N.C. 708, 714, 268 S.E.2d 185, 190 (1980).

Defendant compares this case to *Department of Transportation v. Byerly*, in which “the trial court issued one mixed finding of fact and conclusion of law regarding [the] defendant’s adverse possession claim, which not only fail[ed] to comply with Rule 52(a)(1), but also form[ed] an inadequate basis for this Court to conduct a review and assess [the] appellant’s contentions.” 154 N.C. App. 454, 458, 573 S.E.2d 522, 524–25 (2002). We agree with this comparison; the judgment from which Defendant appeals in this case contains a single paragraph combining findings of fact and

conclusions of law to summarily resolve several of Plaintiffs' claims against Defendant. Consequently, the trial court did not sufficiently detail "[e]ach step of the progression . . . in logical sequence" or "each link in the chain of reasoning" as necessary to facilitate effective appellate review. *Coble*, 300 N.C. at 714, 268 S.E.2d at 190.

"Accordingly, we remand this case to the trial court for additional and adequate findings of fact and conclusions of law, compliant with Rule 52(a)(1)." *Byerly*, 154 N.C. App. at 458, 573 S.E.2d at 525. On remand, the trial court's findings of fact and conclusions of law must be based upon the existing trial record, without the taking of new evidence, as Defendant "had ample opportunity to present evidence and . . . failed to do so." *Miller v. Miller*, 97 N.C. App. 77, 80, 387 S.E.2d 181, 184 (1990). "[R]emanding the matter for the taking of new evidence, in essence granting [Defendant] a second opportunity to present evidence, would only protract the litigation and clog the trial courts with issues which should have been disposed of at the initial hearing." *Id.* (cleaned up).

III. Conclusion

For the foregoing reasons, the judgment is remanded to the trial court for the entry of additional findings of fact and conclusions of law, compliant with Rule 52(a)(1), based upon the existing trial record.

REMANDED.

Judges MURPHY and GORE concur.

POPE V. IVUECARS, LLC

Opinion of the Court

Report per Rule 30(e).