

[Cite as *State Farm Mut. Auto. Ins. Co. v. Balcer Performance & Restoration*, 2018-Ohio-4868.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 106768

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

PLAINTIFF-APPELLANT
CROSS-APPELLEE

vs.

**BALCER PERFORMANCE &
RESTORATION, ET AL.**

DEFENDANTS-APPELLEES
CROSS-APPELLANTS

JUDGMENT:
AFFIRMED IN PART, REVERSED IN PART,
AND REMANDED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-15-849055

BEFORE: S. Gallagher, J., McCormack, P.J., and Blackmon, J.

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SEAN C. GALLAGHER, J.:

{¶1} Appellant/cross-appellee State Farm Mutual Automobile Insurance Company (“State Farm”) was awarded possession of a motorcycle in a replevin action filed against appellees/cross-appellants Balcer Performance & Restoration and its owner, Billy Balcer (collectively “appellees”). State Farm appeals from the judgment of the trial court that awarded damages to appellees on their counterclaim for unjust enrichment from improvements made to the motorcycle. Appellees have filed a cross-appeal from the trial court’s judgment on the counterclaim, asserting the trial court erred by failing to award appellees storage fees and by failing to find appellees are entitled to an artisan’s lien. Upon review of the appeal and cross-appeal, we find that appellees are entitled to recover damages for the improvements to the motorcycle and limited storage fees, but are not entitled to an artisan’s lien. We affirm the decision of the trial court in part, reverse in part, and remand the matter.

Background

{¶2} On July 30, 2015, State Farm filed a replevin action against appellees. State Farm alleged that it is the lawful owner of a motorcycle that was in appellees' possession. Appellees' answer included a counterclaim asserting that State Farm, as the legal owner of the motorcycle, was responsible for paying appellees for repairs, storage, and administrative fees.

{¶3} On August 3, 2016, the trial court issued a journal entry finding that State Farm had demonstrated it was the rightful owner of the motorcycle and was entitled to possession. However, the trial court determined that a genuine issue of material fact remained as to whether State Farm had been unjustly enriched by the services appellees performed.

{¶4} Following an evidentiary hearing, the trial court issued a journal entry along with findings of fact and conclusions of law on December 28, 2016. The court set forth the following findings of fact:

- 1.) Billy Balcer owns Balcer Performance & Restoration.
- 2.) In October 2013 an individual who identified himself as Rodney Braxton brought a 2002 Harley Davidson into Balcer's shop for repairs.
- 3.) Balcer claims that he performed \$8,514.99 in repairs to the vehicle.
- 4.) Over the course of about a year, Balcer and Braxton had some email and face-to-face exchanges regarding the repairs being performed on the motorcycle.
- 5.) No down payment was made to Balcer to initiate the repairs and no payments were ever made to Balcer for the repairs.
- 6.) Balcer attempted to file for certificate of title to the motorcycle.
- 7.) On October 15, 2014, the title search revealed that State Farm is the owner of the motorcycle.
- 8.) On August 10, 2005, State Farm deemed the motorcycle to be a total loss after it was stolen from its previous owner.

- 9.) State Farm compensated the previous owner and lien holder for the loss in the amount of \$16,847.98.
- 10.) State Farm took possession of the motorcycle from Balcer.
- 11.) The “blue book” value of the vehicle is \$5,785.00.
- 12.) Balcer seeks payment from State Farm for the repairs he made to the vehicle.

{¶5} In its conclusions of law, the trial court found in favor of appellees and against State Farm on the unjust enrichment claim. The trial court stated in part:

Here, it has been established that Balcer performed significant repairs on a vehicle at the request of a third party, Braxton. While State Farm was not a party to any agreement between Balcer and Braxton, State Farm is now in possession of a vehicle that has been enhanced and improved by Balcer’s performance. It has been established at trial that the current “blue book” value of the vehicle is estimated to be \$5,785.00. Therefore, the Court finds that Balcer conferred a benefit to State Farm by improving the state of the vehicle of which State Farm now has possession. It would be inequitable for State Farm to retain the benefit without making payment for those improvements.

After concluding that State Farm had been unjustly enriched by the improvements to the motorcycle, the court ordered State Farm to pay Balcer the “blue book” value of the motorcycle in the amount of \$5,785. The trial court did not award appellees any damages for storage costs or find any entitlement to an artisan’s lien.

{¶6} State Farm has appealed from the trial court’s decision, and appellees have filed a cross-appeal. The matter is now before us on review.

Assignments of Error

{¶7} State Farm raises three assignments of error, all challenging the trial court’s decision to award damages to appellees on their counterclaim for unjust enrichment. State Farm claims that the trial court erred when it awarded damages to appellees without any evidence (1) “that the work performed was for appellant State Farm’s benefit and with appellant State Farm’s knowledge,” (2) “that appellant State Farm knew that the labor and services performed were provided with the expectation of payment,” and (3) “that appellant State Farm had a reasonable opportunity to prevent [appellees] from providing the services and labor prior to said services and labor being rendered by appellee[s].”

{¶8} In the cross-appeal, appellees raise three assignments of error. Appellees claim the trial court erred by (1) “failing to award storage fees to Balcer under the theory of quantum meruit,” (2) “failing to consider the theory of unjust enrichment for storage charges from the entire period of time Balcer had the motorcycle,” and (3) “failing to consider Balcer’s artisan’s lien.”

Law and Analysis

{¶9} When reviewing a judgment under a civil manifest-weight-of-the-evidence standard, “a court has an obligation to presume that the findings of the trier of fact are correct.” *State v. Wilson*, 113 Ohio St.3d 382, 2007-Ohio-2202, 865 N.E.2d 1264, ¶ 24, citing *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80-81, 461 N.E.2d 1273 (1984). “Judgments supported by some competent, credible evidence going to all the essential elements of the case will not be reversed by a reviewing court as being against the manifest weight of the evidence.” *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279, 376 N.E.2d 578 (1978), paragraph one of the syllabus.

{¶10} Unjust enrichment arises from a contract implied in law, or a quasi-contract. *Grothaus v. Warner*, 10th Dist. Franklin No. 08AP-115, 2008-Ohio-6683, ¶ 8, citing *Hummel v. Hummel*, 133 Ohio St. 520, 525-528, 14 N.E.2d 923 (1938). “The two remedies most often associated with quasi-contracts are restitution and quantum meruit. Each of these remedies presupposes some type of unjust enrichment of the opposing party.” *Paugh & Farmer, Inc. v. Menorah Home for Jewish Aged*, 15 Ohio St.3d 44, 46, 472 N.E.2d 704 (1984). “[U]njust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another.” *Hummel* at 528. Quantum meruit is a remedy that is available when a court determines that a party has been unjustly enriched from the services of another. *Hilliard v. Lease*, 10th Dist. Franklin No. 95APE04-473, 1996 Ohio App. LEXIS 113, 18-19 (Jan. 16, 1996).

{¶11} To prevail on a claim for unjust enrichment, a plaintiff must prove by a preponderance of the evidence that (1) the plaintiff conferred a benefit upon the defendant, (2) the defendant had knowledge of such benefit, and (3) the defendant retained that benefit under circumstances in which it would be unjust to do so without payment. *See Johnson v. Microsoft Corp.*, 106 Ohio St.3d 278, 2005-Ohio-4985, 834 N.E.2d 791, ¶ 20, citing *Hambleton v. R.G. Barry Corp.*, 12 Ohio St.3d 179, 183, 465 N.E.2d 1298 (1984).

{¶12} Our review of the record reflects that appellees serviced the motorcycle at the request of the third party, Braxton, who Balcer mistakenly assumed was the owner of the motorcycle. State Farm did not obtain knowledge of the motorcycle’s whereabouts or of the services that were rendered until it received a notice dated March 19, 2015, pertaining to an action for motor vehicle title. The notice included a demand for payment for all incurred charges, including storage charges in the amount of \$7,920, repairs of \$8,515, and administrative

fees of \$368.50. The notice indicated a “vehicle value per OBMV” of \$5,785. State Farm responded to appellees with a letter dated March 26, 2015, stating it had never abandoned its claim to the vehicle. State Farm proceeded to file a replevin action on July 30, 2015, to obtain possession of the vehicle. At the time of the hearing on appellees’ counterclaim, State Farm indicated that the motorcycle was in a salvage yard and had not been sold.

{¶13} State Farm argues that there is no evidence that the repair work was performed for its benefit or with State Farm’s knowledge, that it was not involved with the request for repairs, and that it was unaware of the work performed by appellees until well after completion. State Farm further argues that there is no evidence of knowledge by State Farm of any expectation of payment by appellees at the time the services were actually being performed. State Farm contends that any expectation of payment pertained to the third party for whom the services were performed. Finally, State Farm argues that there was no evidence that it had a reasonable opportunity to prevent appellees from performing the services prior to being rendered.

{¶14} Appellees contend that they are entitled to recover under a theory of unjust enrichment for the enhanced value of the motorcycle that State Farm sued to retain. Appellees claim that they conferred a benefit upon State Farm by adding value to the motorcycle it serviced, that State Farm had knowledge of the benefit once it received notice that the motorcycle was in appellees’ possession, and that State Farm retained the benefit under circumstances that are unjust. Appellees contend that knowledge at the time the benefit was conferred is not necessary.

Appellees assert in their cross-appeal that they also should have been awarded storage fees and that they are entitled to an artisan’s lien by operation of Ohio’s common law.

{¶15} We first consider whether the evidence shows appellees conferred a benefit upon State Farm. The trial court determined that appellees conferred a benefit upon State Farm by

enhancing the value of the motorcycle that is now in State Farm's possession. Balcer testified that at the time the motorcycle was brought to Balcer Performance, it was in "very poor" condition. The motorcycle had "a terrible paint job," required some body work, and required many repairs. Balcer described the "significant work" he performed to the motorcycle and stated the total cost for the services performed was \$8,514.99. Our review reflects that there is competent, credible evidence to support the trial court's determination of a conferred benefit.

{¶16} Next, we consider the knowledge element of an unjust enrichment claim, which the parties spend much time debating. We are unable to find any "bright line" rule in the law as to the "knowledge" component. We are cognizant that unjust enrichment is an equitable claim that applies when one retains a benefit that "in justice and equity belong[s] to another" and that restitution is afforded as a remedy "to prevent one from retaining [a benefit] to which he is not justly entitled." *Johnson*, 106 Ohio St.3d 278, 2005-Ohio-4985, 834 N.E.2d 791, at ¶ 20, quoting *Hummel*, 133 Ohio St. at 528, 14 N.E.2d 923, and *Keco Industries, Inc. v. Cincinnati & Suburban Bell Tel. Co.*, 166 Ohio St. 254, 256, 141 N.E.2d 465 (1957). As stated by the Supreme Court of Ohio, "the purpose of such claims 'is not to compensate the plaintiff for any loss or damage suffered by him but to compensate him for the benefit he has conferred on the defendant.'" *Johnson* at ¶ 21, quoting *Hughes v. Oberholtzer*, 162 Ohio St. 330, 335, 123 N.E.2d 393 (1954). To this end, whether the record supports a determination that a defendant has "knowledge of the benefit" conferred upon it will be dependent upon the particular facts of each case.

{¶17} The record reflects that although State Farm did not have knowledge of the services being rendered at the time they were performed, State Farm had knowledge of the benefit conferred at the time it received the notice from appellees and had knowledge of obtaining the

benefit at the time it took possession of the motorcycle. Under the particular facts of this case, there was competent, credible evidence to establish that State Farm had “knowledge of the benefit” that was conferred upon it by appellees.

{¶18} Finally, we must consider whether the evidence shows that it would be unjust for State Farm to retain a benefit that in justice and equity belongs to appellees under the circumstances involved.

{¶19} There is no doubt that State Farm did not request the services and was an “innocent recipient” of the services rendered. The circumstances of this case are unique. Although there is little case law on point, we are guided by the Restatement of the Law 3d, Restitution and Unjust Enrichment (2011). The restatement defines an “innocent recipient” as “one who commits no misconduct in the transaction concerned (§ 51) and who bears no responsibility for the unjust enrichment in question (§ 52).” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 50(2). Although restitution will not be granted if it would subject an innocent recipient to a forced exchange, which occurs when there is no value to the recipient of the performance in question, restitution may be had to the extent specific restitution is feasible and value to the recipient is shown. *See* Restatement of the Law 3d, Restitution and Unjust Enrichment, Sections 2(1) and (4); Section 9; and Section 50.

{¶20} “[V]alue to the recipient’ [is] the usual measure of enrichment in all cases where an innocent recipient has obtained unrequested, nonreturnable benefits.” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 49, Comment c.¹ In such a case, “[t]he

¹ In such a case, the measure of enrichment is limited to “the standard that yields the smallest liability in restitution.” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 50(2). “Because ‘value to the recipient’ is usually the most restrictive measure of enrichment, it is the customary measure of the restitutionary liability of an innocent recipient of unrequested, nonreturnable benefit.” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 50, Comment c.

claimant bears the burden of establishing the value to the defendant, and it must be shown that it is not inequitable to require the defendant to pay money for benefits received in the absence of agreement.” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 25, Comment c. Enrichment from the receipt of nonreturnable benefits may be measured by “the market value of the benefit.” Restatement of the Law 3d, Restitution and Unjust Enrichment, Section 49(3).

{¶21} Under the circumstances of this case, the trial court found that it would be inequitable for State Farm to retain the benefit conferred by Balcer without making payment for the improvements to the motorcycle. Appellees presented evidence of the “very poor condition” of the motorcycle when it was brought to Balcer Performance and of the enhanced value of the motorcycle from the services performed by Balcer. “Value to the recipient,” was measured by the “blue book” value of the vehicle in the amount of \$5,785. We find the trial court’s determination was supported by competent, credible evidence in the record.

{¶22} Having found all of the elements of an unjust enrichment claim were supported by competent, credible evidence, we affirm the trial court’s decision in awarding damages for the improvements to the motorcycle.

{¶23} Next, we consider whether the trial court erred by failing to award appellees storage fees. Case law reflects that ordinarily, a garage owner or repair shop may not recover storage charges from the owner of a stolen vehicle when the vehicle’s owner has not directed the vehicle’s bailment and is unaware of the vehicle’s whereabouts. *Donner v. Maryland Cas. Co.*, 8th Dist. Cuyahoga No. 33802, 1975 Ohio App. LEXIS 6904 (Feb. 27, 1975); *Gulf Ins. Group v. Trester*, 22 Ohio App.2d 172, 259 N.E.2d 509 (12th Dist.1970); *Burns Motor Co. v. Briggs*, 27 Ohio App. 80, 160 N.E. 728 (9th Dist.1928). In such a situation, there is no contract, express or

implied, between the parties, and the garage owner does not have a legal claim against the vehicle's owner nor any right to a lien upon the automobile. *Burns* at 83; *Gulf Ins. Group* at syllabus. As expressed in *Gulf Ins. Group*, storage fees may not be recovered "where the owner is not notified of the recovery of the vehicle or its whereabouts." *Gulf Ins. Group* at syllabus.

{¶24} Similarly, in this matter, the individual who brought the motorcycle to appellees' shop did not have authority to bind State Farm for any storage charges claimed by appellees up to the time State Farm received notice of the vehicle's whereabouts. No contract, express or implied, existed between State Farm and appellees with regard to the storage of the motorcycle during the first phase of storage. Therefore, appellees are not entitled to recover any storage fees prior to the time State Farm received the March 19, 2015 notice.

{¶25} Nevertheless, appellees claim that they should be awarded storage fees for the period after which State Farm was notified of the whereabouts of the motorcycle. Indeed, it has been held that storage fees may not be recovered for the period before the owner is notified of the location of the vehicle and provided with notice of the charges continued storage will generate. *Erie Ins. Co. v. Shirey*, 5th Dist. Stark No. 1994CA00368, 1995 Ohio App. LEXIS 3576, 5 (June 30, 1995). Here, the record shows that appellees were seeking title to the vehicle pursuant to R.C. 4505.10 and had, in the notice sent to State Farm on March 19, 2015, demanded payment for all incurred charges, including storage of the motorcycle. After receiving the notice, State Farm took no action to recover the motorcycle from appellees until July 30, 2015, when it filed a valid replevin action for possession of the vehicle.

{¶26} Our review reflects appellees are entitled to recover storage fees for the period of time from when State Farm learned of the motorcycle's whereabouts to the date it filed the replevin action, which was conceded by State Farm at oral argument. However, appellees cite

no authority showing they are entitled to recover storage fees during the pendency of the replevin action.

{¶27} Finally, appellees have not established any right to an artisan's lien under the facts of this case.

Conclusion

{¶28} We affirm the trial court's award to appellees for the improved value of the motorcycle in the amount of \$5,785. We find the trial court erred by failing to award storage fees for the period from March 19, 2015 to July 30, 2015, only. Appellees may not recover storage charges for the time prior to the notice that was given or after the filing of the replevin action. We also find no basis upon which to award appellees an artisan's lien. The record reflects appellees charged \$15 plus tax per day in storage charges. Upon remand, appellees shall file a statement of storage charges for the stated time period and the trial court shall enter judgment for the amount of storage charges owed.

{¶29} Judgment affirmed in part and reversed in part. Case remanded with instructions.

It is ordered that appellant and appellees share costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

TIM McCORMACK, P.J., and
PATRICIA ANN BLACKMON, J., CONCUR