

STATE OF MICHIGAN
COURT OF APPEALS

JAMES L. MARSHALL,

Plaintiff-Appellant,

V

THE MEADE GROUP, INC., d/b/a CARS &
CARS, INC.

Defendant-Appellee.

UNPUBLISHED

January 11, 2002

No. 224815

Oakland Circuit Court

LC No. 97-000463-CP

Before: Saad, P.J., and Bandstra, C.J. and Whitbeck, J.

PER CURIAM.

Plaintiff Marshall appeals from an order of the trial court dismissing his complaint against defendant (Cars & Cars). We affirm.

The trial court granted Cars & Cars' motion to dismiss under MCR 2.116(C)(10). We review this decision de novo on appeal. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

The record is clear that Marshall purchased the Hummer at issue here from Cars & Cars on an "as-is" basis. Accordingly, Cars & Cars made no implied warranties regarding the vehicle. See MCL 440.2316(3)(a).

Further, there was no genuine issue of material fact regarding Marshall's claim that he was provided an express warranty by Cars & Cars. Marshall points to language in the purchase agreement stating that the sale was "subject to" the transfer of a warranty made by the manufacturer of the vehicle (AM General) to him.¹ However, this language does not in any way indicate that Cars & Cars was assuming any responsibilities or obligations that had been made by AM General in its warranty. Rather, the language suggested only that Marshall was not willing to go through with the purchase if he was not the beneficiary of the obligations and responsibilities undertaken by AM General in its warranty. Accordingly, as part of the sale the benefits of the warranty were transferred to Marshall but the warranty remained that of AM General, not Cars & Cars.

¹ Although originally a party defendant in the underlying action, AM General was dismissed from this suit by stipulation of the parties after reaching a settlement agreement with Marshall.

At his deposition, Marshall stated that he “specifically negotiated with the salesman on the subject of *the manufacturer’s warranty*, and informed him that [he] would not buy this car without *the manufacturer’s warranty* and the inclusion of *the manufacturer’s warranty* was vital to [his] decision to purchase the vehicle.” (Emphasis supplied). Marshall got what he bargained for, protection under the manufacturer’s warranty. To the extent that he complains that warranty failed in its essential purpose or was otherwise deficient, his claim is against AM General, the warrantor, not Cars & Cars.

We have reviewed Marshall’s claims under the Maguson-Moss Warranty Act, 15 USC 2301 *et. seq.*, and the Michigan Consumer Protection Act, MCL 445.901 *et. seq.* In light of our determination that the trial court correctly concluded that Cars & Cars made neither an implied warranty nor an express warranty upon which Marshall can state any valid claim on the record presented here, we further conclude that these statutory claims are without merit.

We affirm.

/s/ Henry William Saad
/s/ Richard A. Bandstra
/s/ William C. Whitbeck