

KENSINGER ACCEPTANCE CORPORATION v. TIPPET.

5-105

258 S. W. 2d 561

Opinion delivered May 25, 1953.

CANCELLATION OF INSTRUMENTS—USURY.—Where appellee purchased an automobile for a credit price of \$1,778.10, executed a title retaining contract until all was paid and admitted that he expected to pay more by buying on time than if he had paid cash, he was not entitled to have the contract canceled on the ground that it was usurious.

Appeal from Pulaski Chancery Court, First Division; *Frank H. Dodge*, Chancellor; reversed.

Barber, Henry & Thurman, for appellant.

R. W. Griffith, for appellee.

J. SEABORN HOLT, J. Appellee, Tippet, brought this suit to cancel a conditional sales contract on the ground of usury, and from a decree sustaining his contention is this appeal.

The record reflects that on November 1, 1951, Tippet purchased from Union Motor Company of North Little Rock, an automobile for a total time price (or credit price) of \$1,778.10. Of this amount, Tippet paid in cash, or its equivalent by a trade in, \$492, leaving a

time balance due of \$1,286.10, which he agreed to pay in eighteen monthly installments of \$71.45 each. As evidence of this agreement, Tippet executed and signed, in favor of Union Motor Company, a conditional sales contract. This contract provided that the title to the automobile should remain in the seller of said car, until the balance of the purchase price was fully paid. Thereafter, the seller, Union Motor Company, sold and assigned to appellant, Kensinger Acceptance Corporation, the conditional sales contract.

Tippet admitted that he expected to pay more by buying the automobile on time than if he had paid cash. He had paid all installments due when the present suit was filed.

For reversal, appellant relies on the case of *Hare v. General Contract Corporation*, 220 Ark. 601, 249 S. W. 2d 973. We hold that this case is controlled by *Crisco v. Murdock Acceptance Corp.*, 222 Ark. 127, 258 S. W. 2d 551, and therefore the decree must be and is reversed with directions to enter a decree consistent with this opinion.
