IN THE COURT OF APPEALS OF IOWA

No. 1-217 / 90-1322

AGRICREDIT ACCEPTANCE CORPORATION,

Appellant,

vs.

POWER PRO, INC.,

Appellee.

Appeal from the Iowa District Court for Cerro Gordo County, John S. MacKey, Judge.

Agricredit Acceptance Corporation appeals an adverse judgment on its breach of warranty and equitable claims. **AFFIRMED.**

Randall E. Nielson of Pappajohn, Shriver, Eide & Nicholas, P.C., Mason City, for appellant.

Darrell J. Isaacson of Laird, Heiny, McManigal, Winga, Duffy & Stambaugh, Mason City, for appellee.

Considered by Schlegel, P.J., and Hayden and Habhab, JJ.

HABHAB, J.

This is an action in equity and at law brought by plaintiff-appellant, Agricredit Acceptance Corporation, a financer of farm equipment, against defendant-appellee, Power Pro, Inc., a Massey Ferguson equipment dealer. The trial court held for defendant on all issues presented. The plaintiff appeals. We affirm.

From the record it appears that a Carlyn Schwieger is a customer of defendant Power Pro. He was interested in purchasing a Massey Ferguson combine. Massey Ferguson was offering a special program termed "Off the End of the Line" that would result in a $20,000 favorable discount. In addition, if the combine was delivered before the end of the 1987 calendar year, Mr. Schwieger would be entitled to an investment tax credit of some $11,000. Mr. Schwieger opted to purchase the combine from Power Pro. The transaction was to be financed by the plaintiff-appellant Agricredit Acceptance Corporation.[1]

1. Agricredit is a Delaware corporation that provides retail financing for farm machinery. It is a wholly-owned subsidiary of Massey Ferguson Credit Corporation. It holds loan portfolios, but has no employees. Massey Ferguson Credit Corporation services Agricredit's loan portfolio. Massey Ferguson Credit Corporation is a wholly-owned subsidiary of Massey Ferguson Incorporated (Maryland), which in turn is a wholly-owned subsidiary of Massey Ferguson Incorporated (Delaware). Massey Ferguson Incorporated (Delaware) is a wholly-owned subsidiary of Variety Corporation.

Massey Combines Corporation was created to continue the manufacturing of farm combines which had previously been conducted by a division of Massey Ferguson Incorporated. Forty-five percent of the stock of Massey Combines Corporation is owned by Variety Corporation. Power Pro, Inc. was owned by Massey Combines Corporation as one of its

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To complete the paperwork before the end of 1987, Power Pro's officers inquired of Agricredit what should be done. An Agricredit agent replied something to the effect of "Get us a serial number and we'll run the paper." Accordingly, a serial number was obtained from Massey Combines. Testimony reveals if a serial number existed, the combine either was already made or soon would be.

In the application for the lease cedit arrangement, Power Pro or its customer represented the combine was already in existence and delivered. The customer also paid approximately $11,000 down. Agricredit filed a financing statement on the combine.

Agricredit wired Massey Combine $49,000 for the machine on January 5, 1988. Agricredit did not know nor did it inquire if the combine was actually delivered. The combine was never manufactured. Massey Combine filed for bankruptcy in March 1988. Agricredit was unable to collect any of its $49,000 from Massey Combine.

Agricredit sued Power Pro in both law and equity for breach of warranty, as well various equitable theories. The trial court found for Power Pro. Agricredit appeals.

I. Equitable Issues.

A. Standard of Review. Our review of the equitable issues is de novo. Iowa R. App. P. 4. We have a duty to

retail stores.

examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

B. Equitable Remedies. We note initially we do not necessarily agree with the trial court's finding of unclean hands on the part of Agricredit. However, our review of the facts and the record indicates the trial court was correct in not granting Agricredit's proposed equitable remedies. The record shows Agricredit operated day-to-day in a different manner than its supposedly established company policies. It knew the combine was not delivered when it accepted the lease agreement. One of its agents agreed to process the lease agreement without actually having the combine in the possession of the farmer. It took out a security interest in an item not then in existence. It knew the combine was to be manufactured in the future. It had an indication as well that Massey Combine Corporation was in serious financial straits. It also knew the combine had to be delivered before the end of 1987 in order for the customer to take advantage of the investment tax credit. Yet, it went ahead and paid almost $49,000 on January 5, 1988, to Massey Combine.

Agricredit has failed to demonstrate any falsity or concealment. Its agent knew the combine was not delivered, yet assented to the issuance of the lease agreement. The record contains other instances of Agricredit's uncoordinated business practices.

The equities in this case do not support Agricredit. It conducted its loan and credit business in something less than a commendable manner. It paid out $49,000 without checking out the facts of which it had notice through its agents. It may not now complain Power Pro did not tell it what it already knew or should have known.

We affirm the trial court on the denial of equitable relief to Agricredit Acceptance Corporation.

II. Law Issues.

A. Standard of Review. A claim for breach of warranty is at law. Findings of facts in a law action have the effect of a special jury verdict and are binding on us if supported by substantial evidence. Iowa R. App. P. 14(f)(1). We construe the trial court's findings broadly and liberally. Grinnell Mut. Reinsurance C. v. Voeltz, 431 N.W.2d 783, 785 (Iowa 1988). In case of doubt or ambiguity we construe the findings to uphold, rather than defeat, the trial court's judgment. Id. We are prohibited from weighing the evidence or the credibility of the witnesses. Id.

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> A finding of fact is supported by substantial evidence if the finding may be reasonably inferred from the evidence. In evaluating sufficiency of the evidence, we view it in its light most favorable to sustaining the court's judgment. We need only consider evidence favorable to the judgment, whether or not it was contradicted.

Briggs Transp. Co. v. Starr Sales Co., 262 N.W.2d 805, 808 (Iowa 1978).

Evidence is substantial or sufficient when a reasonable mind would accept it as adequate to reach the same findings. Waukon Auto v. Farmers & Merchants Sav. Bank, 440 N.W.2d 844, 846 (Iowa 1989). Evidence is not insubstantial merely because it could support contrary inferences. Grinnell Mut. Reinsurance Co., 431 N.W.2d at 785.

The lease arrangement entered into by the parties had a provision the dealer, Power Pro, would buy back the lease if any of the specified warranties were breached. The trial court applied the principles of promissory estoppel in denying the breach of warranty claim. See In re Scheib Trust, 457 N.W.2d 4, 8 (Iowa App. 1990). We affirm.

While promissory estoppel is an equitable defense, as this action sounds at law, our review is also at law. We do not base our affirmance on promissory estoppel, however. We may affirm for any reason, a proper basis for which appears in the record. In re Smith's Will, 245 Iowa 38, 46, 60 N.W.2d 866, 871 (1953). We determine the trial court essentially found the parties had effected a modification of their lease agreement. Agricredit's agent

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modified the agreement by indicating Agricredit would process the lease agreement before the delivery of the combine. Power Pro's forwarding the completed lease papers, along with the serial number, was essentially an acceptance of the modification. Consequently, substantial evidence supports the finding there was no breach of warranty as modified by the paries' agreement. We affirm on this issue.

The trial court is affirmed on all issues. Costs of this appeal are taxed to Agricredit.

AFFIRMED.