

Car owner's 5-year legal ordeal ends

Defunct importer at fault for loan default, but buyer can't get back \$20,000 in legal fees

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WHEN Ms Cindy Chiam discovered that her car had vanished from her driveway, she had no idea it would be the start of a five-year legal nightmare.

It turned out that the Suzuki Swift had been repossessed because the company that imported it had unpaid debts.

The 32-year-old's drawn-out ordeal has now finally come to an end after a ruling by the Subordinate Court. But she is still about \$20,000 out of pocket.

The administrative officer's troubles began in September 2006, when she bought the blue 1.3-litre car from parallel importer Bellcar. She paid \$35,000 for the off-peak car, \$1,000 less than authorised agent Champion Motors' price for a 1.5-litre version.

Ms Chiam said she picked Bellcar because a friend had recommended it.

The company had bought the vehicle from another firm called Car Zone, which had imported it from Japan using money borrowed from a credit company called Kenso Leasing.

But when Car Zone failed to repay the loan, Kenso repossessed the car. It argued that it was the vehicle's rightful owner as it had paid the cost of importing it, and it could not get its money back from Car Zone because the firm had folded.

Meanwhile, police investigated, but found it was simply a commercial dispute with no cheating involved.

In January 2007, Ms Chiam took legal action to get her car back. In October that year, Kenso agreed to release it to her, pending the outcome of the case. It meant she had lost almost one year's use of the car.

The case was finally resolved last month, when she was ordered to pay Kenso about \$34,000 in damages and costs. Bellcar indemnified her for the same amount about two weeks later.

However, she has no way of getting back the \$20,000 she has paid in legal fees.

During the trial, which took place in April 2008, Kenso's lawyer Vijai Parwani had argued that Bellcar did not have the right to sell the car, which meant Ms Chiam was not the legal owner.

He based his arguments on the Sale of Goods Act, which states that "where goods are sold by a person who is not their owner, and who does not sell them under the authority or consent of the owner, the buyer acquires no better title to the goods than the seller had".

Ms Chiam's lawyers argued that Kenso had acted negligently by failing to submit a form to the Hire Purchase, Finance and Leasing Association to lay claim on the car in the first place.

Yesterday, Ms Chiam said she was relieved that Bellcar had paid up, instead of folding.

"Being a private limited company, I don't think I would have been able to recover the money from its shareholders," she said.

"I'm still on the losing end, because of the legal fees, and because of the torture of uncertainty these five years."

Bellcar's director Low Soon Leong said: "We're also the victim here, because we paid Car Zone for the cars.

"We're a bit disappointed, but we will move on from here. We're relieved that the whole thing has finally come to an end."

He said the company had also forked out about \$10,000 in legal costs.

Kenso's director Anthony Lim said the "real culprit in the whole affair has gone scot-free". He was referring to the proprietors of the now defunct Car Zone.

Commenting on the case, lawyer Vijai Parwani of Parwani & Co said: "Perhaps the way forward would be to amend the legislation."

Under British law, for example, those who buy in good faith still become owners of the goods, even if there is a question mark over whether the seller really owned them.

If that was the case here, Ms Chiam would have been spared her ordeal.

