ENGLAND AND WALES / JUDGMENT

James Julyan v Vospers Ltd & Anor

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IN THE COUNTY COURT AT TRURO Neutral Citation Number: [2025] EWCC 70 Claim No: 593MC457 Courts Of Justice Edward St Truro TR1 2PB Date: 3 November 2025 Before : DJ FIELD

- Between : Mr James Julyan
- and - Vospers Ltd
- and - Mrs Susan Julyan
- Claimant Defendant / Part 20 Claimant Part 20 Defendant Mr James Julyan acting as a litigant in person, assisted by his McKenzie Friend, Ms Hendy Ms Natasha Bellinger (instructed by MILS Legal Ltd) for the Defendant and Part 20 Claimant Mrs Susan Julyan acting as a litigant in person Hearing date: 19 September 2025
- Approved Judgment This judgment was handed down remotely at 10.00am on 3 November 2025 by circulation to the parties or their representatives by e-mail. DJ FIELD:

1. This judgment is given in the claim made by Mr Julyan against Vospers Limited (‘Vospers’), for conversion, or in the alternative negligence, arising out of Vospers’ purported purchase of a Toyota C-HR1.8 (‘the Toyota’) in June 2023 from Mr Julyan’s ex-wife, Mrs Julyan.
2. For reasons which will be clear from this judgment, there was a Part 20 additional claim brought by Vospers against Mrs Julyan, however Vospers confirmed at the conclusion of submissions that it no longer sought to pursue the additional claim or seek any remedy from Mrs Julyan. As a result I do not address that additional claim in any detail in this judgment.
3. The thrust of Mr Julyan’s claim is that the Toyota belonged to him and that Mrs Julyan was not entitled to sell it to Vospers. He says that by purporting to purchase the vehicle from her and selling it on, Vospers is liable to him for conversion. He says that, alternatively, Vospers owed him a duty of care as the true owner of the Toyota and that they acted negligently by failing to make adequate enquiries as to its ownership, before purporting to purchase it from Mrs Julyan.
4. Mr Julyan claims £25,000, comprising £20,000 which is said to represent the value of the Toyota and £5,000 in respect of inconvenience and expense caused by the alleged conversion, including taxi fares, hire cars and administrative time.

5. Both Mr Julyan and Mrs Julyan represented themselves at the trial. Vospers was represented by Ms Bellinger. Whilst not legally trained, Mr Julyan was clear and articulate in his submissions and he prepared his documentation to a high standard. His cross examination of Mrs Julyan was focused and appropriate. Mrs Julyan's role in the trial was relatively minimal, save for as a witness. Nonetheless she conducted herself helpfully and appropriately throughout.

6. The facts of the case are relatively straight forward. However, it became apparent to me during the trial that there was some considerable complexity to the legal issues they raise. For that reason I determined to give this reserved written judgment.

Background

The Purchase and Sale of the Toyota

7. Mr and Mrs Julyan were previously married, but divorced some 20 years ago, after which Mr Julyan moved to South Africa and remarried. In early 2022, Mr Julyan moved back from South Africa having separated from his wife and came to live again with Mrs Julyan.

8. Mr Julyan explains that they were not in a romantic relationship at that time and he describes their relationship as that of landlady and lodger. Mrs Julyan has not disputed this.

9. Notwithstanding that they were not in any form of romantic relationship, by October 2022, Mr Julyan proposed buying a new car for their joint use. Mrs Julyan owned a 2008 Mini. Mrs Julyan says that the Mini was adequate for her purposes as a "run around" but that Mr Julyan wanted to buy her a replacement vehicle as a "thank you for saving [him] from South Africa". The parties envisaged that the Mrs Julyan would be the main user of the vehicle and that Mr Julyan would use it less often.

10. They attended Parklands Toyota dealership in Truro ('Parklands') on or about 24 October 2022 and that dealership agreed to a sale of the Toyota for a total price of £26,183.25, inclusive of 12 months tax and a service plan.

11. Parklands produced an invoice addressed to Mr Julyan in this respect, although Mrs Julyan was registered with DVLA as the registered keeper and the V5C document was issued in her name. Mrs Julyan received and retained both keys to the car. Mr and Mrs Julyan agree that Mr Julyan funded all but around £500.00 of the purchase price. The balance was paid by way of the part exchange of Mrs Julyan's Mini.

12. However, it would appear that by early May 2023, such relationship as existed between the parties had become strained and the parties were exchanging text messages about the car. Mr Julyan had asked Mrs Julyan to allow him to use the car. Mrs Julyan refused, referring to it as "[her] car". Mr Julyan replied stating "its not your car". There is some suggestion in the text messages that Mr Julyan had indicated to Mrs Julyan during a verbal conversation that he had taken legal advice in connection with the ownership of the car. On 24 May 2023, Mr Julyan made an offer to Mrs Julyan that the Toyota be sold and the proceeds split 60/40 in his

favour.

13. Matters escalated further when, on or about 27 May 2023, Mrs Julyan attempted to sell the Toyota back to Parklands in part exchange for another vehicle. In circumstances which were the subject of significant attention in evidence and at trial but which have ultimately not proved relevant to my decision, Mr Julyan came to learn of Mrs Julyan's intended sale and he informed Parklands that he was the owner of the vehicle and that he did not agree to the sale. As a result, Parklands refused to proceed with the transaction.

14. This incident precipitated a further exchange of messages between Mr and Mrs Julyan concerning the Toyota, its ownership and how they might resolve the dispute between them. At around 4.30pm on 27 May 2023, the parties were discussing arranging to meet that day to talk about matters further. It is a reasonable inference that they did in fact meet as there were no further messages until 8.00pm when Mr Julyan sent a screenshot to Mr Julyan indicating that Toyota might offer £17,605 for the Toyota. Mr Julyan replied "I need to get £10k". Mrs Julyan replied "So do . I am trying to look into the better deal".

15. Mr and Mrs Julyan proceeded to exchange further messages exploring options for a sale of the Toyota to maximise its sale proceeds. On 28 May 2023 when discussing her intended visit to a car dealership to explore a sale of the Toyota, Mrs Julyan wrote "I will report back on Tuesday. If they need your permission to do anything ie even the valuation will ask them phone you so keep an eye on your phone please" (sic).

16. Throughout the correspondence Mr Julyan re-iterated his belief that the car belonged to him. The exchanges concerning co-operating in a sale ceased on 30 May 2023, and on 12 June 2023, Mr Julyan sent a short message which read "please return my car to me".

17. In fact, unbeknownst to Mr Julyan, on 10 June 2023, Mrs Julyan sold the Toyota to Vospers for £18,350. The purchase price was paid by way of a cash sum of £10,455 and the supply of a Fiat 500 with a stated value of £7,895.00. Mrs Julyan retained the Fiat 500 and the cash proceeds. When selling the vehicle Mrs Julyan signed a purchase invoice containing a declaration which read in respect of the Toyota being exchanged: "I declare that I am the seller of the vehicle described above..."

18. The purchase invoice contained a second declaration which contained a number of statements including: "1. The vehicle was/was not purchased by me new" ... "8. The vehicle is free from any lien or any other encumbrance whether financial or otherwise"

19. However, in error, that declaration was signed by Vospers' employee and that employee failed to strike through or complete the declaration where needed.

20. By 26 July 2023, Mr Julyan had become aware that Mrs Julyan had sold the Toyota in part exchange for the Fiat 500 and he wrote to Mrs Julyan to that effect. He demanded the return of the £10,000 which he described as the "surplus from the now... illegal exchange". In that letter he recounted the circumstances of the purchase as follows: "I bought the car, a medium size hybrid Toyota, in order to cope with long journeys to see my family in

Warwickshire and or Cambridgeshire and indeed so I could fit my golf clubs in it. Your mini was on its last legs with pieces falling off, unlikely to pass its MOT without huge costs, and as the trade in value of £500 indicates it was virtually scrap metal. You further recall you agreed that it was difficult to find parking in Trevean Road for one car let alone two so you asked to put in your mini to get rid of it. You know that the V5 was put in your name as you wanted to drive it more and it would allow the no claims discount (NCD) earned by you to be applied to the insurance. I had no NCD as I had been driving abroad. This allowed you to be the registered keeper only. I paid for the insurance to allow both of us to drive." Julyan v Julyan (437MC086)

21. On 15 August 2023, Mr Julyan issued court proceedings against Mrs Julyan. In the claim form he stated "I am seeking the return of my car or my money as per the offer to split the sale proceeds". I interpret the reference to the offer to split the sale proceeds to be a reference to either the letter dated 24 May 2023 in which he proposed a 60/40 split, or the letter dated 26 July 2023 in which he demanded payment of the £10,000 cash proceeds of sale. It is unclear why he included a claim for return of the car when he knew that it was no longer in Mrs Julyan's possession. The value of the claim was limited to £10,000.

22. The claim was allocated to the Small Claims Track and came to trial on 19 September 2024 before DDJ Whitford. Mrs Julyan did not attend trial having previously filed medical evidence to the effect that her GP could not foresee a time when she would be able to engage with Court proceedings and that a hearing by Microsoft Teams would not be appropriate. The court explored the possibility of a determination on paper but ultimately determined that the trial should proceed in Mrs Julyan's absence.

23. I do not have a transcript of that hearing, but I do have a copy of the Judge's note from the hearing which has been retained on the court file. It is by no means a verbatim note of the hearing or the judgment given. However, it does read as follows "You said £10,000 is what you wanted. Originally you said 60/40. Probably will get £20,000. You wanted to get £10,000."

24. It is not clear from the Judge's note or the order that was made following the hearing, whether the Judge made a determination as to whether Mr Julyan was the sole owner of the Toyota or a joint owner together with Mrs Julyan. However, the Judge certainly concluded that Mr Julyan was an owner and awarded him the £10,000 sought, together with costs.

25. Mr Julyan has subsequently made various efforts to enforce the Judgment against Mrs Julyan. He has made an application under Part 71 for Mrs Julyan to attend for official questioning. He has instructed bailiffs. Mrs Julyan currently has an arrangement in place with the bailiffs whereby she is paying £50 each month. At this rate it will take over 16 years for the debt to be paid, disregarding any entitlement to interest. Julyan v Vospers v Julyan (593MC457)

26. Having failed to make any significant recovery from Mrs Julyan, Mr Julyan set about making a claim against Vospers as the purchaser of the Toyota. As referred to above, Mr Julyan's case is that he was the sole owner of the Toyota and that by purchasing it from Mrs Julyan

without his consent, Vospers committed an act of conversion. Alternatively he says that Vospers owed him a duty of care as the owner of the Toyota and that they acted negligently in completing the purchase without first identifying that he was the legal owner. In particular, he says that had Vospers asked for and inspected the Parklands purchase invoice, they would have seen that it was addressed to him.

27. Mr Julyan issued his claim on 8 November 2024, in response to which Vospers filed a Defence and Part 20 Claim against Mrs Julyan. In respect of the Defence, Vospers put the Claimant to proof as to his ownership of the Toyota and whether the sale was made without his consent and denied there being an actionable claim in negligence. It asserted that it carried out its "due diligence" prior to the purchase by obtaining a signed declaration that Mrs Julyan was the owner and that she had the necessary authority to sell it and by obtaining a Hire Purchase Investigation (HPI) check against the vehicle.

28. Vospers further stated that: a. they were a bona fide purchaser for value in good faith and that as such the benefit from the protection afforded by Section 25 of the Sale of Goods Act 1979, with the result that they received good title to the Toyota; and

b. Mr Julyan failed to take reasonable steps to avoid title transferring to Vospers pursuant to section 23 of the Sale of Goods Act 1979;

29. In respect of the Part 20 claim, Vospers asserted that, to the extent it had any liability to Mr Julyan, it sought an indemnity from Mrs Julyan for breach of contract, it being a term of the contract that she was the owner and entitled to dispose of the Toyota. As I have already noted, that Part 20 claim was not ultimately pursued at trial. The Evidence

30. I had two bundles available to me at the trial. One prepared by Mr Julyan and one prepared by Vospers. There was a significant degree of duplication between the bundles. I worked predominantly from the bundle prepared by Vospers but I have had regard to all of the documents contained within both bundles.

31. The bundles contained, without limitation:

a. A witness statement from Mr Julyan

b. A witness statement from Mrs Julyan

c. A witness statement from Mr Bate, a sales manager employed by Vospers

d. A copy of the Parklands' sales invoice dated 24 October 2022

e. A copy of the V5 showing Mrs Julyan as the registered keeper

f. Whatsapp messages exchanged between Mr and Mrs Julyan for the period 7 May 2023 to 20 June 2023

g. A copy of the HPI check undertaken by Vospers dated 7 June 2023A copy of Vospers' purchase invoice dated 10 June 2023

h. Text extracted from the DVLA website by Mr Julyan concerning the status of a V5 document

i. Miscellaneous correspondence passing between the parties.

32. In addition to the documentation within the bundles I had a copy of DDJ Whitford's note from the trial in the earlier case of Julyan v Julyan. I provided a copy of that note to each of the parties at the start of the hearing, and no party objected to me having regard to that document for the purposes of this judgment.

33. I heard oral evidence from each of the witnesses.

34. I consider that each of the witnesses were honest and were doing their best to assist the court. The primary difference between the evidence of Mr Julyan and Mrs Julyan concerns the parties' intentions at the time the Toyota was purchased. Mrs Julyan says it was a gift to her and that she was the sole owner. Mr Julyan says that the Toyota always belonged to him, he had intended that Mrs Julyan should have primary use of the vehicle and that it was registered in Mrs Julyan's name for reasons of practicality and to reflect that she would be the primary user.

35. Notwithstanding that difference of account, it does not follow that one party must be lying. Firstly, the court must always take account that human memory is fallible and that it can be significantly affected by the process of litigation. Secondly, and importantly in this case, it is entirely possible that, at the time of the purchase, the parties simply never properly addressed their mind to the question of legal ownership or properly communicated with each other what they intended in respect of legal ownership. As a consequence, they might each have always had honestly held but different views about ownership.

36. Whilst the court is grateful for the assistance of Mr Bates, his evidence was of limited value since he was not personally involved in the purchase of the Toyota and so his evidence was limited to talking about what he would normally expect to happen and to give some explanation and context to the documents and industry practice. The Issues

37. The issues which need to be determined in this case are as follows:

a. Has there already been a finding of fact which binds this court as to who was the owner of the Toyota?

b. To the extent there has been no binding determination of ownership, who was the owner of the Toyota?

c. Did Mrs Julyan have authority to dispose of the Toyota? d. In the event that Mrs Julyan was not the sole owner of the Toyota and did not have authority to dispose of it, does Section 25 of the Sale of Goods Act 1979 provide Vospers with a defence to the claim in conversion and/or negligence?

e. Alternatively, does Vospers have a defence under section 23 of the Sale of f. Goods Act 1979 Is there some other defence afforded to Vospers arising from Mr Julyan's alleged failure to take reasonable steps to avoid title passing?

g. Did Vospers owe Mr Julyan a tortious duty of care in relation to the purchase, and did it breach that duty?

h. What remedy, if any, is Mr Julyan entitled to? Has there been a binding finding of fact?

38. The first issue to consider whether a finding concerning ownership in the earlier Julyan v Julyan case would be binding on the court in these proceedings. This engages the doctrine of res judicata and the concept of issue estoppel, described by Lord Sumption in Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd [2013] UKSC 46 at [17] as follows: "Res judicata is a portmanteau term which is used to describe a number of different legal principles with different juridical origins...Fourth, there is the principle that even where the cause of action is not the same in the later action as it was in the earlier one, some issue which is necessarily common to both was decided on the earlier occasion and is binding on the parties"

39. Key to those principles is that the decided issues are binding on the parties to the earlier litigation. They are not binding upon strangers the earlier litigation who could not have participated in it. As such, any finding within the Julyan v Julyan litigation does not bind Vospers.

40. However, it is necessary to consider what findings of fact were made in the earlier proceedings and whether Mr Julyan is seeking to relitigate those issues in these proceedings, since those findings would be binding upon Mr Julyan.

41. Certainly, the court made a finding that Mr Julyan was an owner of the Toyota, otherwise he would not have been entitled to any damages. Mr Julyan does not seek to resile from that finding. However, it is not sufficiently clear from either the order made by DDJ Whitford at the final hearing, or from her notes, whether she determined that there was or was not co-ownership or what the ownership shares were. It is possible that DDJ Whitford concluded that she was satisfied that Mr Julyan owned at least a share of the car and that this share was worth at least £10,000.

42. The burden of proof is on any party contending for an abuse of process and in the absence of clear evidence in the form of a transcript, I cannot conclude that there has been a relevant finding concerning co-ownership and so there can be no abuse found in Mr Julyan asserting that he owned 100% of the Toyota.

43. The result is that Vospers is entitled to put Mr Julyan to proof as to whether he has any ownership at all, and Mr Julyan is entitled to maintain that he owned 100% of the Toyota. Who is the Legal Owner of The Car?

44. The burden of proof is on Mr Julyan to prove on the balance of probabilities that he was an owner of the Toyota, and the extent and nature of his ownership.

45. The first matter that requires consideration is who the parties to the purchase from Parklands were. Mrs Julyan asserts that it was a "joint purchase". She does so on the basis that, although she was not named on the invoice as a customer, she provided her Mini by way of part exchange against the purchase price.

46. Mr Julyan's account is that the Mini was traded in at a value of £500.00 which was applied solely against the service plan cost of £529.46.

47. Regrettably, I do not have all of the purchase documentation relating to the Toyota. The only document I have is the used vehicle invoice dated 24 October 2023. It is likely that there is some other documentation signed by the parties which formed the written contract for the purchase of the Toyota, but in the absence of that document I am entitled to proceed on the basis that it is more likely than not that the invoice is reflective of the other documentation.

48. The invoice is addressed to Mr Julyan and separately names Mr Julyan as the customer. It does not refer to Mrs Julyan anywhere within the invoice. It does contain reference to the Mini being traded in, but it does not apportion the trade in value to either the purchase price for the Toyota or the cost of the service plan.

49. The approach to be taken to construing contractual documentation, including the identification of parties to a contract, "is the ascertainment of the meaning which the document would convey to a reasonable person having all the background knowledge which would reasonably have been available to the parties in the situation in which they were at the time of the contract." (Investors Compensation Scheme Ltd v West Bromwich Building Society

[1998] 1 W. L. R. 896 at [912])

50. However, the court may have regard to extrinsic evidence in some circumstances. In Estor Ltd v Multifit (UK) Ltd [2009] EWHC 2565 Akenhead J set out the following principle (at paragraph 26): "Obviously, where there was an issue as to the identity of the party entering into the contract, if there was evidence that representatives of each party had met before the contract was signed and had said to each other that the contract was to be between X and Y, that would be admissible and relevant in determining who the parties to the contract were to be. If however the evidence about what was said and done was not as explicit and clear as that, one needs to construe or infer objectively what reasonable parties would have assumed would be the position based on what was said or done."

51. Mrs Julyan does not go so far in her witness statement to say that it was expressly discussed and agreed between herself, Mr Julyan and Parklands that she would be a party to the contract. In the circumstances, the court must objectively assess the parties' intentions based on the available evidence. That evidence includes the invoice being addressed to Mr Julyan and naming Mr Julyan as the customer, Mrs Julyan providing her Mini for part exchange and the V5 being registered in Mrs Julyan's name.

52. In my view, neither the trade in of the Mini, nor the registration of the vehicle in Mrs Julyan's name is sufficient to displace the clear naming of the parties to contact in the invoice as Mr Julyan and Vospers.

53. Having determined, that Mrs Julyan was not a party to the purchase contract, she could only become an owner or part owner of the vehicle if there was some separate contract between herself and Mr Julyan, or if Mr Julyan made a gift to her.

54. I am satisfied on the balance of probabilities that, having purchased the Toyota from Parklands, Mr Julyan had the requisite intentions to make a gift to Mrs Julyan of a 50% share in that vehicle and that the gift was perfected by delivering possession of the Toyota and its keys to Mrs Julyan. I do so on the basis that:

a. Whilst it might be said it is unlikely Mr Julyan would make a gift to Mrs Julyan with a value of some £10,000 or so, there is some explanation for why he might do so. Firstly, there is more to the relationship between the parties than that of a simple landlord and lodger. They were previously married and Mrs Julyan agreed to allow Mr Julyan to come and live with her when he returned from South Africa. This suggests some residual connection and perhaps affection, even if the parties were not in a romantic relationship. Secondly, there was limited parking at Mrs Julyan's property, with the result that if Mr Julyan wanted access to a good quality car that could be parked conveniently, he would need to agree something with Mrs Julyan about substituting her car for a newer car, the use of which could be shared.

b. Mrs Julyan having some ownership of the car is consistent with the car being registered in her name. However, it is not inconsistent with joint ownership. The V5 is not proof of title and cannot be registered in joint names.

c. The idea of Mr Julyan being the sole owner of the car is inconsistent with Mrs Julyan retaining both keys to the car and Mr Julyan effectively needing to ask on any occasion he wished to use the car as evidenced in the text messages. d. It is notable that in the earliest text messages, prior to the onset of the dispute, Mrs Julyan refers to the car as "my car".

e. The pragmatic approach initially adopted by both parties in the text messages in May where they are both seeking to maximise the sale value and provide each of them with £10,000, suggests a realistic acknowledgment by both of them at that time that this was a shared asset and that there was a there common understanding that that it would be equally shared. I consider Mr Julyan's subsequent 60/40 split proposal reflected his desire to ensure he received £10,000 which is what he said he needed from the sale as a minimum, rather than a

belief on his part that there was an agreed 60/40 ownership split. Such a split would be arbitrary.

f. Shared ownership is also consistent with the manner in which Mr Julyan approached the earlier litigation. Mr Julyan was entitled to sue for delivery up of the car even if it is jointly owned, since a co-owner can still commit conversion and each owner is entitled to possession. His claim for damages would need to be limited to the value of his share however.

55. However, beyond finding that the Toyota was jointly owned in equal shares, it is necessary to address the manner of that ownership having regard to the principles which apply to co-ownership of personal property (i.e property which is not land).

56. Unlike land, personal property can be owned by either as joint tenants or tenants in common at law. By virtue of section 36(2) of the Law of Property Act 1925, land can only be held as tenants in common in equity.

57. The distinction between joint tenants and tenants in common, at equity and at law, is of some significance to this case in my view for the reasons addressed later in this

judgment.

58. The nature of a joint tenancy is that both owners own the whole of the property in question. “Although as between themselves joint tenants have separate rights, as against everyone else they are in the position of a single owner” (Megarry & Wade: The Law of Real Property (10th Ed) at 12-002).

59. Conversely in a tenancy in common “each tenant in common has a distinct share in property which has not yet been divided among the co-tenants. Thus tenants in common have quite separate interests. The only fact which brings them into co- ownership is that they both have shares in a single property which has not yet been divided among them.” (Megarry & Wade: The Law of Real Property (10th Ed) at 12- 010).

60. For property to be held as joint tenants, the co owners must have unity of interest and unity of title. As is helpfully summarised in The Law of Personal Property (3rd Ed) at paragraph 2-042 “Unity of interest means that each co-owner has an identical interest in the subject-matter. Unity of title means that each co-owner’s interest was created by the same grant or transfer.” Where property is held as joint tenants, the right of survivorship applies, meaning that when a joint tenant dies, the survivor automatically acquires the deceased owner’s interest.

61. It unrealistic to imagine that either Mr or Mrs Julyan addressed their minds to whether they would be joint tenants or tenants in common. The intention must therefore be objectively construed.

62. I find that the Toyota was owned by Mr and Mrs Julian as Tenants in Common at law. I do so because:

a. They do not have unity of title, Mrs Julyan's interest was created by a separate grant after Mr Julyan's purchase of the Toyota;

b. On the balance of probabilities, I do not consider that, objectively construed, Mr Julyan intended that the principle of survivorship should apply to the Toyota. That would seem inherently unlikely in circumstances where the pair were not in a romantic relationship. Did Mrs Julyan Have Authority to Sell the Toyota?

63. Whilst it does not form part of my decision, I would pause at this juncture to say that if I had found that the Toyota was held as joint tenants, I do not consider that Mr Julyan's consent would have been required in order for Mrs Julyan to transfer good title to Vospers. I say this because Mrs Julyan would have had an undivided interest in the whole of the Toyota and "as against everyone else [other than the other owner] they are in the position of a single owner".

64. However, since I have found that they are tenants in common and Mrs Julyan did not have title to the other 50% of the Toyota, it is necessary to consider whether Mrs Julyan had consent for the sale.

65. Mr Julyan contends that Mrs Julyan did not have the necessary "consent" or authority to sell the Toyota.

66. Authority comes in two forms, actual authority and ostensible authority.

67. Actual authority can be express or implied. There can be no question in the present case that Mrs Julyan had actual authority, in either form, to sell the Toyota. It is apparent from the fact Mr Julyan objected in such strong terms to Mrs Julyan's attempt to sell the Toyota to Parklands that she did not have his authority to sell the Toyota. The only reasonable reading of the text messages which Mr and Mrs Julyan exchanged is that Mr Julyan was content for Mrs Julyan to explore potential sales, but that he expected to be able to determine whether any particular sale went ahead. Of particular note is Mrs Julyan's text on 28 May 2023 when discussing her intended visit to a dealership in which she wrote: "I will report back on Tuesday. If they need your permission to do anything ie even the valuation I will ask them phone you so keep an eye on your phone please"

68. Apparent authority arises where one person, the principal, represents to a third party through their words or conduct that another person, the agent, has authority to act on their behalf. It is not enough for the putative agent to represent that they have the principal's authority. However, the conduct of the principal can make it more reasonable for the third party to rely upon the agent's assertion that they have authority.

69. Given that the apparent authority stems from the words and conduct of the supposed principal, it follows that it cannot apply in cases involving an undisclosed principal, meaning instances where the third party is unaware that they are dealing with the agent of another person. An undisclosed principal is only bound to a contract which is entered into with his actual authority. This is confirmed in the case Sui Yin Kwan v Eastern Insurance [1994] AC 199 at 207.

70. Since Vospers had no knowledge of Mr Julyan, Mrs Julyan cannot have had apparent authority to act on his behalf.

71. In summary therefore, Mrs Julyan did not have Mr Julyan's consent or authority (of whatever form) to sell the Toyota. Does Section 25 of the Sale of Goods Act 1979 Provide Vospers With A Defence?

72. At the heart of Mr Julyan's case has been the principal of English law that that no one can transfer a better title to goods than he himself possesses, sometimes referred by the Latin maxim nemo dat quod non habet.

73. That general rule is reflected in section 21(1) of the Sale of Goods Act 1979 ('the Act') which states "Subject to this Act, where goods are sold by a person who is not their owner, and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods in by his conduct precluded from denying the seller's authority to sell"

74. There are however exceptions to both the principle and provisions of Section 21 of the Act. One of them is set out in section 25. It is not the most accessible of provisions, but it reads as follows:

25. Buyer In Possession After Sale "Where a person [B] having bought or agreed to buy goods obtains, with the consent of the seller [A], possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under any sale, pledge, or other disposition thereof, to any person [C] receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner."

75. Section 25 is relied upon by Vospers as authority that, because they acted as a good faith purchaser, they will take good title to the Toyota even though Mrs Julyan did not have good title to sell. However, that is not the effect of section 25 of the Act. Section 25 deals with the circumstances where A sells to, or agrees to sell to, B and allows B to take possession of the goods, notwithstanding that title has not yet have transferred or there is some other lien by A. If B then enters into a sale to C and C acts in good faith without notice of A's rights, then C will receive good title.

76. Applying section 25 to the facts of this case, A would be Mr Julyan, B would be Mrs Julyan and C would be Vospers. However, the arrangement between Mr Julyan and Mrs Julyan does not come within the ambit of Section 25. Mrs Julyan never "bought or agreed to buy" the Mr Julyan's interest in the Toyota. Mr Julyan purchased the Toyota from Parklands and made a partial gift of it to Mrs Julyan. Since the arrangement between Mr and Mrs Julyan falls outside of Section 25, Vospers does not benefit from the protection it affords to a good faith purchaser.

77. As a consequence, the section 25 Defence must fail. Does Vospers have a defence under section 23 of the Sale of Goods Act 1979?

78. In its Defence, the Vospers relies upon section 23 of the Sale of Goods Act 1979 as providing a defence on the grounds that the Defendant failed to take reasonable steps to prevent title passing to prevent title passing.

79. Section 23 of the Act provides as follows: "When the seller of goods has a voidable title to them, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title."

80. Reliance on Section 23 was characterised in the Defence as Mr Julyan having failed "to take reasonable steps in time or at all to avoid title" passing. However this misunderstands the meaning of "voidable title". Section 23 does not place an owner under a generalised obligation to take reasonable steps to prevent a non owner from selling goods.

81. The protection afforded by section 23 is limited to case where B has received title to goods from A, but A is entitled to elect to avoid the transfer of title. The circumstances in which A might be entitled to do so include where B has obtained title by fraud, misrepresentation or duress. It does not apply where B has stolen the goods or is simply in possession of the goods, for in these circumstances B has not received title at all (whether voidable or otherwise).

82. Mrs Julyan did acquire title to 50% of the Toyota by virtue of Mr Julyan's gift, but that title is not voidable since it was not obtained by fraud, misrepresentation, duress or any other action which would entitle Mr Julyan to void the transaction. As to the remaining 50% of the Toyota, Mrs Julyan never took title to this part, whether voidable or otherwise.

83. As a result section 23 does not afford Vospers any protection. Is there some other defence afforded to Vospers arising from Mr Julyan's alleged failure to take reasonable steps to avoid title passing?

84. In its Defence Vospers asserted that "if the Claimant truly retained legal ownership of the vehicle at the time of their purchase, which is denied, he should have taken all reasonable steps to ensure that Mrs Julyan was not able to dispose of the vehicle".

85. The Defence did not expand upon why or how it says such a duty would arise. It would seem that there is no room for such a duty to arise since section 11(1) of the Torts (Interference With Goods) Act 1977 expressly provides: “Contributory negligence is no defence in proceedings founded on conversion, or on intentional trespass to goods.”

86. Vospers made no reference to Section 21(1) of the Sale of Goods Act 1979 in either its Defence or it is skeleton argument for trial, but even if I were to construe the words of the defence as being wide enough to amount to an assertion that Mr Julyan was “by his conduct precluded from denying [Mrs Julyan’s] authority to sell”, I do not consider that Mr Julyan has undertaken any such conduct.

87. The use of the word “conduct” in the Act is not sufficient to encompass any omission by Mr Julyan. In any event, it is not clear what action Mr Julyan could have taken. He could not report it as stolen since it was jointly owned and Mrs Julyan was entitled to possession. When he did attempt to report the vehicle as stolen 20 June 2023, the police simply recorded it as civil dispute. There was no evidence provided by Vospers that HPI service would have allowed Mr Julyan to register his 50% interest with them.

88. The only conduct that could be relied upon is Mr Julyan’s decision to register the vehicle in Mrs Julyan’s name and to have possession of both keys. I am not satisfied that wither is sufficient to preclude Mr Julyan from denying Mrs Julyan’s authority. The V5 document states on its face that it “is not proof of ownership”. There are many reasons why a person other than the legal owner of a car could come into possession of its keys.

89. As a consequence, I am not satisfied that there has been some failure or conduct by Mr Julyan which would afford Vospers a defence in conversion. Did Vospers owe Mr Julyan a tortious duty of care in relation to the purchase, and did it breach that duty?

90. Since I found that Mr Julyan owned 50% of the Toyota, that Mrs Julyan did not have Mr Julyan’s authority to sell it and there is no defence available to claim in conversion, it follows that there is no need for me to consider in any significant detail whether the claim in negligence should also succeed.

91. The duty of care contended for by Mr Julyan must be construed as being that when a dealership buys a car, they owe a duty to any unidentified legal owner of the vehicle to identify whether the purported seller is the legal owner.

92. When determining whether such a notional duty exists, the court must first consider whether the court’s have already determined that a duty of this kind arises in such situations or in analogous situations. In the absence of such judicial authority, the court must consider whether it is fair just and reasonable to impose such a duty (Robinson v Chief Constable of West Yorkshire [2018] UKSC 4 at 24-26).

93. I have not been referred to any judicial authority (whether binding or otherwise) for the proposition that a dealership owes a duty to unidentified third parties in such circumstances or analogous circumstances. As a consequence, my task is to consider whether it would be fair just and reasonable to impose such a duty in these circumstances.

94. I do not consider that there it would be fair just and reasonable to impose a duty of care in circumstances where the owner is adequately protected in the law of conversion. Remedy

95. Having received the Toyota without Mr Julyan's consent and then having sold it, Vospers have committed a conversion in respect of Mr Julyan's interest in that vehicle.

96. Vospers is no longer in possession of the Toyota, having sold it for £19,450 shortly after their purchase. As a result that court cannot make an order for delivery up and can only make an award of damages.

97. The measure of damages is the ordinary tortious measure, namely to the return the Claimant to his position had the conversion not been committed. That is achieved by making an award of the damages to reflect the market value of his 50% interest in the Toyota.

98. There is suggestion with within Clerk and Lindsell on Torts (24th ed) at 16.141 that where a co-owner with a limited interest brings a claim in conversion against a third party, the co-owner is entitled to the full value of the goods. However, that statement appears to be drawn from authorities where the goods are mortgaged and the Claimant retains a liability to the mortgagee (Blue Sky One Ltd v Mahan Air [2010] EWHC 631 (Comm) at [98]-[99]. I do not consider that this principle applies where the co-owner has consented to the sale and, indeed, is a joint tortfeasor. In these circumstances, the co-owner's interest in the goods has been extinguished and the Claimant would have no liability to them.

99. I am satisfied therefore that Mr Julyan's right to damages is limited to 50% of the market value of the goods. 100. The best evidence available as to the value of the Toyota is the price paid by Vospers to purchase it (£18,350) and the price at which Vospers subsequently sold it (£19,450). I consider the latter properly reflects the market value of the Toyota. Mr Julyan had purchased the car from a dealership with the additional protections that this affords. Whilst he might have been able to purchase a similar Toyota through a private sale for a lower price, this would not return him to his position prior to the conversion, as he would lack the protections associated with a retail purchase. 101. Mr Julyan claims damages in addition to the value of the Toyota, or his interest in it. In particular he seeks damages for inconvenience, distress, anguish and suffering. In principle, Mr Julyan is entitled to recover consequential damages which he is able to prove, but he is not entitled to an award in respect of mere inconvenience or distress. 102. He asserts in his witness evidence that as a consequence of the conversion he has incurred costs associated with taxi fares and temporary transport. These are losses which could in principle be awarded if they are proven. However, Mr Julyan's evidence is lacking in this regard. The only loss which is particularised and evidenced is an invoice for £299.98 in respect of car hire, albeit that

invoice is undated. 103. I am satisfied on the balance or probabilities that having purchased a car for his joint use, there will have been times when Mr Julyan had need of a car and that car was not available to him by reason of its conversion. I am satisfied on the balance of probabilities that he has on at least one such occasion hired a vehicle at a cost of £299.98 as evidenced in the invoice. 104. There was no claim for interest and accordingly, Mr Julyan's total entitlement to damages is £10,024.98. 105. Since Mrs Julyan and Vospers are joint tortfeasors, Mr Julyan can seek to recover against either or both of them, but he cannot recover more than the total of the damages which have been awarded. As such, Mr Julyan must give credit to Vospers for any recovery made against Mrs Julyan. Similarly, he must give Mrs Julyan credit for any sums recovered from Vospers.

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Prepared on 23 October 2026 · Esheria