

The Directed Duesenberg

Signed Agreement Becomes Enforceable Contract

by Lawrence Savell

The concept of money sometimes being an inadequate substitute for something important, such as one's beloved automobile, is easily understood by devoted car collectors. The law similarly recognizes that in some situations awarding monetary damages for a wrong may not be adequate compensation. Thus, the concept of "specific performance" was developed, which provides that in some cases involving breach of an agreement, the other party may actually be compelled to do specifically what he or she had agreed to do. In situations involving the sale of goods, specific performance may be ordered by a court where the goods involved are unique in some way.

The doctrine of specific performance was recently applied in the context of a collector car in *Hoffmann vs. Sprinchorn*, decided on March 12, 1997 by the United

agreed to sell the Duesenberg to him for \$375,000. On January 20, Hoffmann sent Sprinchorn a letter containing a proposed payment schedule and enclosed a \$5,000 check to Sprinchorn and two copies of a "Buy/Sell Agreement Between Robert Hoffmann & Solon Sprinchorn" both of which Hoffmann had signed. Hoffmann suggested that Sprinchorn have his "attorney draw up a better sales agreement."

Although Sprinchorn signed one of the two copies of the agreement he received, he never mailed it to Hoffmann and never cashed the check because he had changed his mind and had decided not to sell the automobile. On February 2, Sprinchorn informed Hoffmann of his change of heart.

In June of 1995, Sprinchorn indicated that he would accept cash or a certified check in the amount of \$375,000 and

among other things, an order compelling Sprinchorn to specifically perform the terms of the agreement. After a trial, the Court ruled for Hoffmann.

The Court noted that, in a contract action, "the plaintiff has the burden of proof to establish by a fair preponderance of the credible evidence the existence of the contract under which [he] claims to be entitled to injunctive relief." A valid contract requires an offer and an acceptance manifesting the parties' mutual assent and an exchange of consideration (something measurable given) from each to the other. Mutual promises of future performance may serve as adequate consideration for a contract.

The court observed that, although Sprinchorn, on January 17, 1995, had accepted Hoffmann's offer to buy the Duesenberg for \$375,000 over the telephone, because that agreement was not reduced to or embodied in a writing signed by Sprinchorn prior to his revocation of the acceptance, it was not yet enforceable against him. However, on June 2, 1995, after Sprinchorn again accepted Hoffmann's offer to buy the Duesenberg for \$375,000, and signed the agreement, it became a judicially enforceable contract.

"The evidence that the parties had several conversations regarding the condition and value of the Duesenberg, that Hoffmann had visited New York to inspect the automobile, that Sprinchorn initially had orally agreed and then had rescinded and then had agreed again to sell the car, that Hoffmann had suggested to Sprinchorn that he consult with an attorney, that Sprinchorn had gone to California with all his papers concerning the Duesenberg, that Sprinchorn had demanded payment in full in cash or by certified check before he would give

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States District Court for the Western District of New York.

According to the Court, Robert Hoffmann saw pictures of Solon Sprinchorn's 1933 Duesenberg J Murphy convertible coupe. Hoffmann called Sprinchorn, who indicated he was interested in selling the Duesenberg, which he believed to be worth \$750,000. Hoffmann felt that was excessive.

In December 1994 Hoffmann offered to buy the Duesenberg for \$375,000. Sprinchorn said he believed that the automobile was worth \$400,000. Hoffmann responded that \$375,000 was his "top offer." On January 17, 1995 Sprinchorn telephoned Hoffmann and


that when such payment was made in full Hoffmann could have the Duesenberg. Hoffmann responded that he would be able to pay the full amount by the end of the month, and asked him to sign a copy of the agreement, which Sprinchorn did. On June 12, Sprinchorn informed Hoffmann that he had "changed [his] mind" and that he would not sell the Duesenberg. Hoffmann sent Sprinchorn a letter indicating his possession of the necessary funds and his willingness to tender such in cash or equivalent. He asked Sprinchorn to respond within five days. Sprinchorn never did.

Hoffmann sued Sprinchorn, seeking,

Hoffmann possession of the vehicle, that Sprinchorn had voluntarily signed the agreement which states, inter alia, that 'I, Solon L. Sprinchorn, agree to sell to Robert Hoffmann one Duesenberg automobile I.D. #2435/J413 Murphy convertible coupe for the sum of \$375,000.00' and that Hoffmann had made arrangements to come to New York and to have a particular carrier transport the automobile to California support a finding that the parties had mutually agreed and intended that Sprinchorn would sell the Duesenberg to Hoffmann in exchange for \$375,000."

However, the most convincing evidence that Sprinchorn had in fact, at the time he signed the agreement, intended and agreed to sell his automobile is his testimony that he subsequently "changed [his] mind" regarding the agreement and had decided not to sell. Such statement implicitly confirms that, when he signed the agreement, he indeed had intended and agreed to sell the Duesenberg to Hoffmann for \$375,000."

Turning to the "remedy" for Sprinchorn's breach of contract, the court observed that "inasmuch as there is no doubt that the Duesenberg is unique, Hoffmann is entitled to specific performance." It is undisputed that fewer than 500 Duesenbergs of any model were manufactured, that fewer than 250 are still in existence and that the Duesenberg at issue was the only one of such model produced.

"Accordingly, it is hereby ORDERED that Sprinchorn shall, no later than 30 days from the date of this Order, make available and deliver to Hoffmann or to Hoffmann's duly appointed agent...the unencumbered title to and possession of the 1933 Duesenberg J Murphy convertible coupe at issue,...and that Hoffmann (or his agent) shall, simultaneously with the delivery to him (or to his agent) of such automobile and title, deliver to Sprinchorn \$375,000 in cash or a certified check in such amount,...and that this case shall be closed." 

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