



TROY ALLEN RIETH and ALICIA
RIETH,

Plaintiffs-Appellants,

v.

THE STANDARD FIRE INSURANCE
COMPANY,

Defendant-Respondent,

and

STEFAN MICHAEL DALY,

Defendant.

Filed: November 24, 2020

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Insured's single point on appeal claims the trial court misapplied the law in entering judgment for Standard Fire because the owned-vehicle exclusion in his policy "does not apply because the term 'own' is ambiguous." Finding no merit in that claim, we affirm.

The Stipulated Facts

The parties submitted the case to the trial court on the following stipulated facts.² On September 1, 2016, Insured drove his 2014 Ford F250 ("Vehicle") to a jobsite in Springfield. Later that morning, Stefan Michael Daly ("Tortfeasor") was being chased on foot by police when he entered Vehicle without permission or consent, started the engine, and began to drive Vehicle away. Insured jumped onto the passenger side of Vehicle to try to prevent Tortfeasor from stealing it. Insured was thrown from Vehicle, and he sustained serious injuries when he hit the pavement. Insured's damages from the incident exceeded \$200,000. Tortfeasor was uninsured.

At the time of the incident, Vehicle was titled in Insured's name, and it was insured by a Standard Fire insurance policy ("the policy"). The policy identified Insured as the named insured, and it covered two vehicles: Vehicle and a 2011 Cadillac Escalade. The policy had UM limits of \$100,000 per person and \$300,000 per accident.

The Insuring Agreement of the policy's UM coverage section also contained the following exclusion (the "owned-by exclusion"):

However, "uninsured motor vehicle" does not include any vehicle or equipment:

1. Owned by or furnished or available for the regular use of you or any "resident relative" to the extent that the limits of

² "Because [this] case was submitted on stipulated facts and did not involve the trial court's resolution of conflicting testimony, our review is not governed by *Murphy v. Carron*, 536 S.W.2d 30, 31 (Mo. banc 1972); rather 'the only question before this court is whether the trial court drew the proper legal conclusions from the facts stipulated.'" *Chastain v. James*, 463 S.W.3d 811, 817 (Mo. App. W.D. 2015) (citations omitted).

liability for this coverage exceed the minimum limits of liability required by the financial responsibility law of Missouri.

Relying upon the owned-by exclusion, Standard Fire paid Insured \$50,000 in UM benefits -- the sum of the minimum \$25,000 limit of liability required by Missouri's financial responsibility law for each vehicle insured under the policy. *See* sections 379.203.1, RSMo 2016, and 303.030.5, RSMo Cum. Supp. 2019.

Insured's petition alleged that he was entitled to an additional \$150,000 from Standard Fire -- the sum of the maximum \$100,000 UM limit for each vehicle, less the \$50,000 Standard Fire had already paid.

The trial court found that Insured's certificate of title to Vehicle constituted *prima facie* evidence of his ownership of Vehicle, and Insured had failed to rebut that presumption. Based upon Insured's un rebutted, presumed ownership, the trial court ruled that the owned-by exclusion precluded any additional recovery under the policy beyond the \$50,000 Standard Fire had already paid. This appeal timely followed.

Analysis

We review a trial court's interpretation of an insurance policy *de novo*, and we give the policy language its plain meaning. *Carter v. Shelter Mut. Ins. Co.*, 516 S.W.3d 370, 372 (Mo. App. E.D. 2017). If we find the language to be ambiguous, we then construe the ambiguity against the insurer and apply the meaning most favorable to the insured. *Id.* "Language is ambiguous if it is reasonably open to different constructions." *Id.* If there are no ambiguities, we must enforce an insurance policy according to its terms. *Id.* "A court may not create an ambiguity . . . to distort policy language and enforce a construction it feels

is more appropriate.” *Id.* (quoting *Taylor v. Bar Plan Mut. Ins. Co.*, 457 S.W.3d 340, 344 (Mo. banc 2015)).

Insured argues that the term “own” is ambiguous because the policy does not define it, especially since the policy specifically defines at least 16 other terms, including the “ownership” of a leased vehicle. Insured claims that Missouri case law has applied various meanings to the word “owned” that depended upon the context in which that term was used.

When it comes to the ownership of a motor vehicle, our high court has recognized that an “[o]wner” is defined generally as ‘one that has the legal or rightful title whether the possessor or not.’” *Manner v. Schiermeier*, 393 S.W.3d 58, 62-63 (Mo. banc 2013) (quoting *Webster’s Third New International Dictionary* 1612 (1961)); see also *Case v. Universal Underwriters Ins. Co.*, 534 S.W.2d 635, 639 (Mo. App. Spfld.D. 1976) (title establishes a rebuttable presumption of ownership).

Insured relies upon *Lightner v. Farmers Ins. Co.*, 789 S.W.2d 487 (Mo. banc 1990), to argue that, even if his certificate of title to Vehicle proves that he is the owner of Vehicle, Insured did not have dominion over Vehicle at the time of the incident because Tortfeasor had *stolen* it – thereby depriving Insured of his ownership as that term is used in the owned-by exclusion.

The law applied in *Lightner* was the same as the law applicable here, but the facts were different. There, a father was the named insured of a truck that a father bought, but he added his son’s name to his own on the certificate of title. At trial, the father testified that he only added his son’s name to allow the truck to go to the son if “something happened” to the father. *Id.* at 489. In concluding that the son did not “own” the truck for purposes of an owned-vehicle exclusion, our high court noted that while the certificate of title is *prima facie*

evidence of ownership, that presumption may be rebutted. *Id.* at 490. In *Lightner*, the father’s credited testimony rebutted the presumption of the son’s ownership as the father “could, at his pleasure, withdraw the permission to drive the truck, which does little to bespeak ownership in [the son].” *Id.*

Here, Insured offered no similar evidence to rebut his presumed ownership of Vehicle. And Tortfeasor’s attempt to steal Vehicle could not transfer legal title to him or divest Insured of his legal title to Vehicle. Absent any evidence rebutting the presumption that Insured owned the vehicle titled in his name, the trial court did not misapply the law in finding that the owned-vehicle exclusion unambiguously limited Insured’s UM coverage to \$25,000 for each vehicle listed in the policy. *See Floyd-Tunnell v. Shelter Mut. Ins. Co.*, 439 S.W.3d 215, 217 (Mo. banc 2014).

Insured’s point is denied, and the judgment of the trial court is affirmed.

DON E. BURRELL, J. – OPINION AUTHOR

JEFFREY W. BATES, P.J. – CONCURS

GARY W. LYNCH, J. – CONCURS