STATE OF MICHIGAN

COURT OF APPEALS

BRIAN LEGGERT,

Plaintiff-Appellee,

v

RICK REWEKANT and KELDAN INCORPORATED, d/b/a SOUTH LYON HOTEL,

Defendants-Appellants.

UNPUBLISHED
July 16, 1999

No. 204658
Oakland Circuit Court
LC No. 96-515791 NO

Before: Doctoroff, P.J., Markman and J.B.Sullivan*, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendants' motion for summary disposition in this personal injury action. We affirm as to defendant Kelden, Inc., d/b/a South Lyon Hotel, reverse as to defendant Rewekant and remand.

A participant in a sporting activity is assumed to be aware of the ordinary and ever-present hazards inherent in the playing of the game and to have consented to the risk of injury inherent in the contest, other than breaches of contest rules designed to protect the safety of the players as opposed to the integrity of the contest. *Higgins v Pfeiffer*, 215 Mich App 423, 425; 546 NW2d 645 (1996); *Schmidt v Youngs*, 215 Mich App 222, 228; 544 NW2d 743 (1996); *Overall v Kadella*, 138 Mich App 351, 357-358; 361 NW2d 352 (1984). This consent does not extend, however, to the negligence of another, *Schmidt, supra*, or to the reckless or intentional acts of another, *Higgins, supra* at 426.

If believed by a trier of fact, plaintiff's testimony that defendant Rewekant left the base line, moved to the infield side of the baseline and tackled him in the bottom of the last inning with two outs and when defendants' team was down by fourteen runs is sufficient to support a conclusion that Rewekant acted negligently, recklessly or intentionally. If, on the other hand, the trier of fact finds credible Rewekant's testimony that plaintiff's fall was caused when Rewekant slid underneath plaintiff while plaintiff was standing in the base line and blocking third base, then the testimony is sufficient to

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

support a conclusion that plaintiff's injury fell within the risks inherent in the game of softball. Stated another way, if plaintiff is believed then a valid cause of action exists against Rewekant, *Higgins, supra* at 426; *Schmidt, supra* at 228, and if Rewekant is believed then plaintiff has no cause of action, *Higgins, supra; Schmidt, supra*. Because genuine issues of material fact exist with regard to the actual circumstances of the collision, summary disposition was erroneously granted as to defendant Rewekant.

As to defendant Keldan, Inc., d/b/a South Lyon Hotel, although plaintiff alleges it had a "duty to abide by the rules of the league and properly instruct its players," plaintiff fails to cite to any authority in support of his position. *Weiss v Hodge (After Remand)*, 223 Mich App 620, 637; 567 NW2d 468 (1997); and see *Schmidt, supra* at 224-225 (where no legal duty exists, plaintiff has failed to state a claim upon which relief can be granted and summary disposition is appropriate pursuant to MCR 2.116(C)(8)). We will not reverse when the trial court reaches the right result for the wrong reason. *State Mutual Insurance Co v Russell*, 185 Mich App 521, 528; 462 NW2d 785 (1990).

Affirmed in part, reversed in part and remanded for proceedings consistent with this opinion. Defendant Kelden, Inc, d/b/a/ South Lyon Hotel, being the only party having prevailed in full, may tax costs pursuant to MCR 7.219. We do not retain jurisdiction.

/s/ Martin M. Doctoroff
/s/ Joseph B. Sullivan