

STATE OF MICHIGAN
COURT OF APPEALS

AUDLEY SMITH,

Plaintiff-Appellant,

v

LIPPERT COMPONENTS, INC. and DOUGLAS
L. LIPPERT,

Defendants-Appellees.

UNPUBLISHED

May 16, 2000

No. 213877

Gratiot Circuit Court

LC No. 97-004922-CZ

THOMAS PERRY,

Plaintiff-Appellant,

v

LIPPERT COMPONENTS, INC. and DOUGLAS
LIPPERT,

Defendants-Appellees.

No. 215757

Gratiot Circuit Court

LC No. 97-004897-CZ

Before: Doctoroff, P.J., and O'Connell and Wilder, JJ.

PER CURIAM.

In these consolidated cases, plaintiffs appeal as of right from the trial court's orders granting defendants' motions to dismiss for lack of subject matter jurisdiction, pursuant to MCR 2.114(C)(4). We reverse and remand.

Plaintiffs Smith and Perry were employed by defendant Lippert Components, Inc., a Pennsylvania corporation with its principal place of business in Alma, Michigan. Plaintiffs were hired in Michigan while they were residents of Michigan. Plaintiff Smith was hired in January, 1998, as a production manager for a production facility in Alabama. After several weeks of training in Michigan,

plaintiff Smith worked at the Alabama facility until he was discharged in March, 1996. Plaintiff Perry was hired in April, 1992, as a production manager for a production facility in Texas. After several weeks of training in Michigan, plaintiff Perry worked in defendants' facilities in Texas, Ohio, and Indiana, until he was discharged while working in Indiana in May, 1996. Both plaintiffs moved back to Michigan after they were discharged.

Thereafter, plaintiffs filed complaints alleging age discrimination under the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*; MSA 3.548(101) *et seq.*, and breach of contract. In response, defendants filed motions for summary disposition pursuant to MCR 2.116(C)(4), arguing that the circuit court did not have subject-matter jurisdiction over plaintiffs' claims. Defendants argued that Alabama law was applicable to plaintiff Smith's claims and that Indiana law was applicable to plaintiff Perry's claims. Defendants reasoned that, because plaintiffs' claims were not governed by Michigan law, the Michigan circuit court did not have subject-matter jurisdiction over the claims. The trial court granted defendants' motions for summary disposition pursuant to MCR 2.116(C)(4) on the basis of the arguments advanced by defendants.

On appeal, plaintiffs assert that the circuit court erred in concluding that it did not have subject-matter jurisdiction and in dismissing their complaints pursuant to MCR 2.116(C)(4). Plaintiffs contend that their complaints should not have been dismissed under MCR 2.116(C)(4) because their claims should be decided under Michigan law. While we do not agree that the choice of law issue is dispositive of subject matter jurisdiction, we conclude that the trial court had subject-matter jurisdiction over plaintiffs' claims and erred in dismissing plaintiffs' claims pursuant to MCR 2.116(C)(4). Whether the trial court had subject-matter jurisdiction is a question of law that we review *de novo*. *Specht v Citizens Ins Co*, 234 Mich App 292, 294; 593 NW2d 670 (1999).

In *Bowie v Arder*, 441 Mich 23; 490 NW2d 568 (1992), our Supreme Court defined subject-matter jurisdiction as

“the right of the court to exercise judicial power over that class of cases; not the particular case before it, but rather the abstract power to try a case of the kind or character of the one pending; and not whether the particular case is one that presents a cause of action, or under the particular facts is triable before the court in which it is pending, because of some inherent facts which exist and may be developed during the trial.” [*Id.* at 39, quoting *Joy v Two-Bit Corp*, 287 Mich 244, 253-254; 283 NW 45 (1938).]

A court's subject-matter jurisdiction is determined by reference to the allegations in the complaint. *Neal v Oakwood Hospital Corp*, 226 Mich App 701, 707; 575 NW2d 68 (1997). If the allegations indicate that the matter is within the class of cases over which the court has power to act, then subject-matter jurisdiction exists. *Id.* at 707-708. Thus, it is clear that whether the court has subject-matter jurisdiction is a question that is separate and distinct from the question whether the laws of this or another jurisdiction are applicable to a claim.

Here, plaintiffs filed their complaints in circuit court. Circuit courts are courts of general jurisdiction, vested with original jurisdiction over all civil claims and remedies “except where exclusive jurisdiction is given in the constitution or by statute to some other court.” MCL 600.605; MSA 27A.605; *Bowie, supra* at 50. The allegations in plaintiffs’ complaints involved claims of employment discrimination and breach of contract. Such claims are clearly within the class of cases over which the circuit court has power to act. MCL 600.605; MSA 27A.605; *Nummer v Dep’t of Treasury*, 448 Mich 534, 549-550; 533 NW2d 250 (1995) (circuit court has concurrent jurisdiction with the Civil Right Commission over discrimination claims); *Bd of Co Road Comm’rs for the Co of Eaton v Schultz*, 205 Mich App 371, 375; 521 NW2d 847 (1994) (circuit court has subject-matter jurisdiction over breach of contract action). We therefore conclude that the circuit court had subject-matter jurisdiction over plaintiffs’ claims and that the court erred in granting defendants’ motions for summary disposition pursuant to MCR 2.116(C)(4).

Accordingly, we reverse the trial court’s order dismissing plaintiffs’ claims pursuant to MCR 2.116(C)(4). We remand this case to the circuit court for the circuit court’s reconsideration of the choice of law issue. We do not retain jurisdiction.

/s/ Martin M. Doctoroff

/s/ Peter D. O’Connell

/s/ Kurtis T. Wilder