STATE OF MICHIGAN

COURT OF APPEALS

CLARENCE G. ARCHAMBO, III, Plaintiff-Appellee,	UNPUBLISHED January 9, 2001
v	No. 202289 Cheboygan Circuit Court
LAWYERS TITLE INSURANCE CORPORATION and CHEBOYGAN TITLE COMPANY, Defendants-Appellants.	LC No. 95-005318-CK ON REMAND

Before: Griffin, P.J., and McDonald and White, JJ.

PER CURIAM.

This case returns to us on remand as on rehearing granted to consider plaintiff's argument "that, in light of paragraph 15 of the policy of title insurance, the court erred in relying on the title commitment." *Archambo v Lawyers Title Ins Corp*, 463 Mich 888 (2000).

Paragraph fifteen of the proposed policy of title insurance is its integration clause. Were the policy of title insurance to become effective, paragraph fifteen would provide:

> 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.
>
> (a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
>
> (b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.
>
> (c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

However, paragraph fifteen of the proposed title insurance policy never became effective between the parties because the policy was "null and void" as a result of plaintiff's breach of the conditions applicable to the title commitment. Specifically, the title commitment provided, in pertinent part:

> CONDITIONS APPLICABLE TO ALL COMMITMENTS:
>
> * * *
>
> This commitment is delivered and accepted upon the understanding that the party to be insured has no personal knowledge or intimation of any defect, objection, lien or encumbrance affecting subject land other than those set forth herein and in the title insurance application. *Failure to disclose such information shall render this commitment, and any policy issued pursuant thereto, null and void* as to such defect, objection, lien or encumbrance. [Emphasis added.]

In our prior opinion, we held as follows:

> In the instant case, the title insurance commitment contained a specific reservation of rights to void the policy if plaintiff failed to disclose the existence of a lien. Plaintiff acknowledged at trial that he did not disclose the federal tax lien to his insurers. Therefore, pursuant to the explicit language of the title commitment, the resulting policy was void with regard to the federal lien. In light of the express language of the title commitment placing a duty on plaintiff to disclose the tax lien and his failure to disclose the lien, the trial court erred when it found that plaintiff was entitled to coverage under the policy.

Plaintiff previously argued that the rights of the parties are governed by the integration clause of the title insurance policy. However, the policy is "null and void" because of plaintiff's breach of the conditions of the title commitment. The terms "null and void" are defined by Black's Law Dictionary as follows:

> Null and void. Naught; of no validity or effect. . . . "Null and void" means that which binds no one or is incapable of giving rise to any rights or obligations under any circumstances, or that which is of no effect.

See also *Fox v Univ of Michigan Bd of Regents,* 375 Mich 238, 242; 134 NW2d 146 (1965) ("of no force or validity, and are a mere nullity and void"), *Dull v Royal Ins Co,* 159 Mich 671, 673; 124 NW 533 (1910) ("[w]e are of opinion that the policy in question must be held to have been void at the time of its issuance"), *Clark v John Hancock Ins Co,*180 Mich App 695; 447 NW2d 783 (1989), and *Consolidated Mortgage Corp v American Security Ins Co,* 69 Mich App 251, 256; 244 NW2d 434 (1976) (a null and void insurance contract is "inoperative"). Simply put, because the policy of title insurance was null and void, its integration clause does not govern the rights of the parties.

We recognize that the federal district court in *Lawyers Title Ins Corp v First Federal Savings Bank & Trust,* 744 F Supp 778 (1990), in its attempt to construe Michigan law, came to

a contrary conclusion. There, the district court held that the integration clause of the title insurance contract superseded the conditions of a title commitment but only

> where the parties to an existing contract enter into a new agreement, completely covering the same subject matter, but containing terms which are inconsistent with those of the earlier contract, so that the two cannot stand together, the effect is to supersede and rescind the earlier contract, leaving the latter agreement as the only agreement of the parties on the subject. [*Id.* at 783, quoting with approval *Joseph v Rottschafer*, 248 Mich 606, 610; 227 NW 784 (1929).]

Our disagreement with the federal district court lies with its assumption that the parties entered into an effective title insurance policy contract. In our view, such a contract never came into existence because it was rendered "null and void" by plaintiff's breach of the conditions precedent contained in the title insurance commitment. The federal district court did not address this issue. In any event, we choose not to follow its decision.

Reversed.

/s/ Richard Allen Griffin
/s/ Gary R. McDonald