STATE OF MICHIGAN

COURT OF APPEALS

LARRY T. CAPRI,

Plaintiff-Appellant,

v

WORTHINGTON CUSTOM PLASTICS, INC., d/b/a WORTHINGTON PRECISION METALS, INC.,

Defendant-Appellee.

UNPUBLISHED
February 27, 2001

No. 216845
Oakland Circuit Court
LC No. 97-544828-CZ

Before: Doctoroff, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Plaintiff appeals of right from an order granting defendant's motion for summary disposition. We affirm.

In January 1973, Bethandale hired plaintiff as director of quality assurance. Plaintiff continued in this position until 1975, when he became director of sales. In 1985, defendant purchased Bethandale's parent company Buckeye International. Plaintiff continued to work as director of sales for defendant until his termination in 1996.

On appeal, plaintiff argues that the trial court erred in granting defendant's motion for summary disposition because defendant was bound by an oral employment contract to terminate plaintiff only for cause. We disagree.

We review de novo a trial court's decision to grant a motion for summary disposition. *Smith v Globe Life Ins Co*, 460 Mich 446, 454; 597 NW2d 28 (1999). A motion for summary disposition under MCR 2.116(C)(10) tests the factual support of a claim. *Id.* The reviewing court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties in the light most favorable to the nonmoving party. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The court should grant the motion only if the affidavits or other documentary evidence show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Id.*

Plaintiff argues that his termination violated a just-cause employment agreement he negotiated with Bethandale in 1973. Oral employment contracts of indefinite duration are

presumed to be terminable at will by either party. *Rood v General Dynamics Corp*, 444 Mich 107, 116; 507 NW2d 591 (1993). To overcome the presumption of employment at will, a party must present sufficient evidence of an express contract for a definite term or a provision forbidding discharge without just cause. *Id*. at 117. Here, plaintiff claims that his oral employment contract included an understanding that he would only be terminated for cause. To support this claim, plaintiff points to alleged statements made by his supervisor in 1973 consisting of a promise that "as long as [plaintiff's] performance was adequate, [he] could be considered to be on board." However, oral statements of job security must be clear and unequivocal to overcome the presumption of employment at will. *Rowe v Montgomery Ward & Co, Inc*, 437 Mich 627, 645; 473 NW2d 268 (1991).

A valid oral, just-cause employment agreement, like any other contract, requires evidence of mutual assent. *Rood, supra* at 118-119. The existence of mutual assent is determined by looking to the expressed words of the parties and their visible acts to decide whether a reasonable person in the position of the promissee would have interpreted the promisor's statements or conduct. *Id* at 119. In this case, we do not find clear and unequivocal evidence of Bethandale's mutual assent to a just-cause employment agreement, or statements of job security sufficient to overcome the presumption that plaintiff was an employee at will. In *Rood*, our Supreme Court rejected the employee's claims of a just-cause employment agreement where the employee's concerns were directed at the future of the employer's trucking business, rather than the fear of discharge. *Rood, supra* at 124-125.

The facts of this case are also analogous to *Lytle v Malady (On Rehearing)*, 458 Mich 153; 579 NW2d 906 (1998). In *Lytle*, our Supreme Court found that the defendant's oral statements promising that the plaintiff's job was secure and that she had potential for promotion did not create a just-cause employment contract because there were no specific statements regarding duration of employment or grounds for termination. *Id*. at 171-172. Although there were some discussions of job security in this case, there was no evidence that plaintiff's former supervisor made any specific statements regarding the duration of his employment or grounds for termination.

It is apparent that plaintiff failed to present sufficient evidence that he negotiated a just-cause employment agreement with his former supervisor at Bethandale and the trial court would have been justified in granting defendant's motion for summary disposition on this basis. However, the court's statements at the motion hearing indicate that it granted summary disposition because it found that defendant was not bound by the alleged just-cause employment agreement between plaintiff and defendant's predecessor, Bethandale. The record also suggests that the court doubted the existence of plaintiff's just-cause agreement, however, there is no indication that the trial court ever specifically determined whether plaintiff presented sufficient evidence to overcome the presumption of employment at will.

Because we conclude that plaintiff did not have a valid just-cause employment agreement with Bethandale, defendant was entitled to summary disposition and we need not reach the issue whether the alleged agreement was binding on defendant. Although the trial court granted summary disposition for a different reason, this Court will not reverse a trial court's decision where it reached the right result for the wrong reason. *Detroit v Presti*, 240 Mich App 208, 214;

610 NW2d 261 (2000). We conclude that the trial court did not err in granting defendant's motion for summary disposition.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter