

STATE OF MICHIGAN
COURT OF APPEALS

KEVIN M. CHUDLER,

Plaintiff-Appellant,

v

QUALIFIED CONSTRUCTION
CORPORATION,

Defendant-Appellee.

UNPUBLISHED

December 18, 2001

No. 223251

Oakland Circuit Court

LC No. 99-011791-CK

Before: Owens, P.J., and Holbrook, Jr. and Gage, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7). We affirm.

This action arises out of a contract between the parties under which defendant agreed to renovate plaintiff's home. The parties do not contest that their contract provided that disputes arising from the contract would be submitted to arbitration. When defendant did not finish the renovations on time or in accordance with plaintiff's expectations, plaintiff filed a complaint against defendant in the circuit court. In his amended complaint, plaintiff alleged that defendant fraudulently induced him to enter into the construction contract. Defendant moved for summary disposition, which the trial court granted under MCR 2.116(C)(7).

Plaintiff contends that the trial court erred in granting defendant's motion for summary disposition. This Court reviews de novo a trial court's grant of summary disposition under MCR 2.116(C)(7) to determine whether the moving party was entitled to judgment as a matter of law. *Watts v Polaczyk*, 242 Mich App 600, 603; 619 NW2d 714 (2000). In reviewing a motion under MCR 2.116(C)(7), this Court accepts as true the plaintiff's well-pleaded allegations and construes them in the plaintiff's favor. *Abbott v John E Green Co*, 233 Mich App 194, 198; 592 NW2d 96 (1998). This Court also considers the pleadings, affidavits, depositions, admissions, and other documentary evidence filed or submitted by the parties to determine whether a genuine issue of material fact exists. MCR 2.116(G)(5); *Watts, supra*. The existence of an arbitration agreement and the enforceability of its terms are judicial questions for the court rather than the arbitrators. *Watts, supra*. "Presumably, judicial questions, like questions of law, are reviewed de novo." *Id.*

As we have indicated, the agreement signed by the parties undisputedly contained an arbitration clause, which provided that disputes arising from the construction agreement were to be resolved through arbitration. Plaintiff does not claim that he was unaware of the arbitration provision or that he did not read the construction agreement, but instead asserts that he was induced to enter into the construction agreement as a whole by defendant's misrepresentations regarding the number of its employees, that its employees were "highly skilled," that plaintiff's home would be renovated in a "good and skillful manner," and that the job would be completed in six to eight weeks. Defendant does not dispute that if an agreement to arbitrate is induced by fraud, the arbitration agreement is void. See *Horn v Cooke*, 118 Mich App 740, 745-746; 325 NW2d 558 (1982).

Actions for fraud or fraudulent misrepresentation or inducement require proof of the following elements: (1) the defendant made a material representation; (2) the representation was false; (3) when the defendant made the representation, the defendant knew it was false or made it recklessly without knowledge of its truth and as a positive assertion; (4) the defendant made the representation with the intention that the plaintiff would act on it; (5) the plaintiff acted in reliance on it; and (6) the plaintiff suffered damages as a result. *Hi-Way Motor Co v Int'l Harvester Co*, 398 Mich 330, 336; 247 NW2d 813 (1976); *Arim v General Motors Corp*, 206 Mich App 178, 195; 520 NW2d 695 (1994). A party's reliance on the alleged misrepresentations must be reasonable in light of the circumstances. *Novak v Nationwide Mut Ins Co*, 235 Mich App 675, 689-690; 599 NW2d 546 (1999). While fraud in the inducement renders a contract voidable at the option of the defrauded party, *Samuel D Begola Services, Inc v Wild Bros*, 210 Mich App 636, 640; 534 NW2d 217 (1995), the circumstances constituting fraud must be stated with particularity in the pleadings. MCR 2.112(B)(1). General allegations will not suffice to state a fraud claim. *LaMothe v Auto Club Ins Ass'n*, 214 Mich App 577, 586; 543 NW2d 42 (1995). Allegations containing mere speculation of fraud do not overcome a motion for summary disposition. *Easley v University of Michigan*, 178 Mich App 723, 726; 444 NW2d 820 (1989).

Although plaintiff alleged in his complaint that defendant misrepresented the size and skill level of its workforce and that the renovation work would be completed timely and in a skillful manner, we find that plaintiff failed to sufficiently allege any support for his claims. Despite that the trial court gave plaintiff the opportunity to amend his complaint to include allegations of fraud, he did not identify any individual who made the alleged misrepresentations. Furthermore, the complaint fails to set forth any specific facts indicating that the statements were in fact misrepresentations. For example, plaintiff did not allege that defendant's workforce was smaller than alleged by defendant, alleged no support for his claim that defendant's workforce was unskilled, and failed to explain with any specification how the work that defendant performed qualified as substandard. Plaintiff provides no indication beyond his bare, general assertion that in entering into the construction agreement he *reasonably* relied on defendant's alleged claims regarding the size and skill level of its workforce and the renovation completion deadline.¹

¹ As the trial court noted, plaintiff, an attorney, signed the construction agreement that contained an integration clause stating that "[t]his contract represents the entire agreement between the Owner and the Contractor and no representation or warranty shall be binding upon either party (continued...)

We conclude that plaintiff has failed to state the circumstances constituting fraud with sufficient particularity to set forth a fraud claim that may withstand summary disposition. MCR 2.112(B)(1); *LaMothe, supra* at 586. Because plaintiff did not demonstrate that defendant fraudulently induced him to enter into the arbitration agreement, we conclude that the learned trial court properly dismissed his complaint pursuant to MCR 2.116(C)(7).

Affirmed.

/s/ Donald S. Owens
/s/ Donald E. Holbrook, Jr.
/s/ Hilda R. Gage

(...continued)
unless included herein.”