

STATE OF MICHIGAN  
COURT OF APPEALS

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L & R HOMES, INC.,

Plaintiff-Appellant,

v

JACK CHRISTENSON, ROCHESTER, INC.,  
CHRISTENSON AND CHRISTENSON, INC.,  
d/b/a JACK CHRISTENSON, INC., and JACK D.  
CHRISTENSON,

Defendants-Appellees.

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UNPUBLISHED

August 6, 2002

No. 229176

Oakland Circuit Court

LC No. 99-017608-CZ

Before: Gage, P.J., and Cavanagh and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendants Christenson and Christenson, Inc., d/b/a Jack Christenson, Inc., (“JCI”) and Jack D. Christenson. We affirm in part and reverse in part.

Plaintiff and defendant Jack Christenson, Rochester, Inc., (“Rochester”) reached a mediation agreement to resolve a breach of contract claim, but the trial court refused to pierce the corporate veil and hold the other defendants liable. The court based its decision on plaintiff’s failure to sufficiently plead fraud committed by defendants.

This Court reviews a motion for summary disposition de novo. *Arias v Talon Development Group, Inc.*, 239 Mich App 265, 266; 608 NW2d 484 (2000). Piercing the corporate veil is an equitable doctrine and thus is also reviewed de novo. *Law Offices of Lawrence J Stockler, PC v Rose*, 174 Mich App 14, 43; 436 NW2d 70 (1989). In determining whether a separate corporate entity should be disregarded, each case is unique and must be considered in light of its own underlying facts. *Brown Bros Equipment Co v State Highway Comm.*, 51 Mich App 448, 452; 215 NW2d 591 (1974). “There is no single rule delineating when the corporate entity may be disregarded.” *Foodland Dist v Al-Naimi*, 220 Mich App 453, 456; 559 NW2d 379 (1996). There are several grounds under which a court may pierce the corporate veil:

Where the corporation is a mere agent or instrumentality of its shareholders or a device to avoid legal obligations, the corporate entity may be ignored. A court may look through the veil of corporate structure to avoid fraud

or injustice. The community of interest between corporation and shareholders may be so great that, to meet the purposes of justice, they should be considered as one and the same. When the notion of a corporation as a legal entity is used to defeat public convenience, justify a wrong, protect fraud or defend crime, that notion must be set aside and the corporation treated as the individuals who own it. The fiction of a corporate entity different from the stockholders themselves was introduced for convenience and to serve the ends of justice, but when it is invoked to subvert the ends of justice it should be and is disregarded by the courts. [*Kline v Kline*, 104 Mich App 700, 702-703; 305 NW2d 297 (1981) (citations omitted).]

Thus, the trial court erred when it required plaintiff to prove fraud. However, summary disposition would still be proper if plaintiff failed to sufficiently show Rochester was defendants' "agent," "mere instrumentality," "device to avoid legal obligations," "legal entity . . . used to defeat public convenience," or a similar capacity. *Id.* The pleadings, affidavits, depositions, and other documentary evidence must be considered in the light most favorable to plaintiff. *Ritchie-Gamester v Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999).

Plaintiff has set forth numerous allegations of "a confusion of affairs" between Rochester and JCI. Many of these parallel those identified in *Herman v Mobile Homes Corp*, 317 Mich 233, 239-243; 26 NW2d 757 (1947), and *Pfaffenberger v Pavilion Restaurant Co*, 352 Mich 1, 7; 88 NW2d 488 (1958). *Pfaffenberger*, especially, is analogous because the trial court in that case granted the defendant's motion for summary disposition. This Court reversed, finding that the plaintiff, by alleging facts indicating the corporations were "organized, controlled and managed" as "instrumentalities, agents and adjuncts" of each other, had sufficiently identified a genuine issue of material fact. *Id.*

Furthermore, plaintiff could not challenge the corporate form or question the capitalization of Rochester at the time the lease was signed because it was unknown; the corporation did not, at that time, exist. Cf. *Klager v Robert Meyer Co*, 415 Mich 402, 415-416, n 6; 329 NW2d 721 (1982), *Finley v Union Joint Stock Land Bank of Detroit*, 281 Mich 214, 221-222; 274 NW 768 (1937), *Gledhill v Fisher & Co*, 272 Mich 353, 363; 262 NW 371 (1935). Although plaintiff did not clearly assert Rochester is uncollectible, that inference can be made from the allegations that Rochester has no assets, no income, and no bank account of its own. There is a striking similarity between the present case and both *Herman* and *Pfaffenberger*; like those cases, plaintiff presented sufficient evidence to create a genuine issue of material fact regarding whether the relationship between Rochester and JCI merits disregarding their separate corporate entities.

Regarding defendant Jack D. Christenson, however, plaintiff's allegations are much less provocative. The record includes only a few references linking the individual to Rochester. Plaintiff alleged that Jack D. Christenson holds the office of president and sometimes other offices in all of the Christenson corporations. He used his own money, at least in part, to capitalize Rochester. And although he signed the lease in question, he did so only in his official corporate capacity, not as an individual, therefore legally limiting his personal liability. See *Gledhill*, *supra* at 360. Plaintiff has provided little more to support the claim against Jack D. Christenson as an individual; the relationship between that defendant and Rochester does not achieve the same level of commingled identities as that of JCI and Rochester. Therefore,

although the trial court's reasoning was erroneous, we affirm the grant of summary disposition in favor of Jack D. Christenson because the result was correct. See *DeHart v Joe Lunghamer Chevrolet, Inc*, 239 Mich App 181, 183; 607 NW2d 417 (1999).

Affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Hilda R. Gage  
/s/ Mark J. Cavanagh  
/s/ Kurtis T. Wilder