STATE OF MICHIGAN

COURT OF APPEALS

DEBRA WELLS,

Plaintiff-Appellant,

v

ABC WAREHOUSE, d/b/a ABC APPLIANCES, INC, and DONALD SEXTON,

Defendants-Appellees.

UNPUBLISHED
January 27, 2004

No. 242746
Genesee Circuit Court
LC No. 01-072004-NO

Before: Zahra, P.J., and Cavanagh and Cooper, JJ.

PER CURIAM.

Plaintiff Debra Wells appeals as of right the trial court's order granting defendants summary disposition under MCR 2.116(C)(7). We affirm.

This case arises out of plaintiff's employment at ABC Warehouse, during which time she was allegedly subjected to sexual harassment and discrimination. ABC Warehouse's application for employment included the following clause:

> I agree that if I am employed by the Company . . . (3) that in partial consideration for my employment, I shall not commence any action or other legal proceeding relating to my employment or the termination thereof more than six months after the event complained of and agree to waive any statute of limitations to the contrary . . . .

Plaintiff was eventually dismissed from her employment for failure to report to work. Almost a year later, plaintiff filed a claim alleging sexual harassment. The trial court held that plaintiff's claim was barred by the six-month period of limitations, MCR 2.116(C)(7). The instant appeal ensued.

We review a trial court's ruling on a motion for summary disposition de novo.[1] Similarly, the proper interpretation of a contract and whether its language is ambiguous are

[1] *Maskery v U of M Bd of Regents*, 468 Mich 609, 613; 664 NW2d 165 (2003).

questions of law subject to de novo review.[2] Under MCR 2.116(C)(7), the plaintiff's well-pleaded factual allegations, affidavits, or other admissible documentary evidence are accepted as true unless contradicted by documentation submitted by the movant.[3]

Plaintiff initially argues that the contract at issue is inconsistent and ambiguous because creation of a six-month period of limitations does not comply with the three-year period of limitations applicable to civil rights claims under Michigan's Civil Rights Act.[4] Specifically, plaintiff claims that the shortened period of limitations conflicted with the portion of the contract stating that is was "designed to strictly comply with State and Federal fair employment practice laws prohibiting discrimination in employment because of race, color, religion, sex, national origin, age, marital or veteran status, handicap, medical condition, or any other legally protected status." Thus, plaintiff asserts that she did not knowingly and voluntarily waive her right to the three-year statute of limitations applicable to civil rights claims.

In determining whether a contract provision is ambiguous, the language used is given its ordinary and plain meaning.[5] Ambiguity exists if the words may *reasonably* be construed in different ways.[6] "Absent an ambiguity or internal inconsistency, contractual interpretation begins and ends with the actual words of a written agreement."[7] When a phrase is unambiguous and no reasonable person could differ with respect to its application, summary disposition is appropriate.[8] Here, the provisions at issue clearly serve two separate and distinct purposes. The ordinary and plain meaning of the statement on the first page merely indicates that the application form is designed to prevent potential discrimination in the selection process through compliance with MCL 37.2206. The limitation provision on the last page, however, is intended to set forth the terms and conditions that will apply to successful applicants.

Likewise, plaintiff has failed to show that her waiver was not knowingly or voluntarily made. Absent fraud or mutual mistake, a party who signs a contract cannot seek to invalidate it on the ground that he failed to read it or thought that its terms were different.[9] While plaintiff asserts that she did not understand that the application shortened the limitations period, we note that directly above her signature is an acknowledgment stating that she read, understood, and

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[2] *Rossow v Brentwood Farms Development, Inc*, 251 Mich App 652, 658; 651 NW2d 458 (2002).

[3] *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999).

[4] MCL 37.2101 *et seq*; MCL 600.5805(9).

[5] *Rossow*, *supra* at 658.

[6] *Universal Underwriters Ins Co v Kneeland*, 464 Mich 491, 496; 628 NW2d 491 (2001).

[7] *Id.*

[8] *Rossow*, *supra* at 658.

[9] *Paterek v 6600 Limited*, 186 Mich App 445, 450; 465 NW2d 342 (1990).

agreed to the conditions of employment. Because the language at issue was clear, plaintiff cannot seek to disclaim the contract on the ground that she failed to understand its terms.[10]

Plaintiff ultimately contends that modifying the statutory period of limitations for civil rights claims goes against public policy; or in the alternative, that a six-month period of limitations for employment civil rights claims is unreasonable. Again, we disagree.

It is not against public policy for Michigan courts "to uphold provisions in private contracts limiting the time to bring suit where the limitation is reasonable, even though the period specified is less than the applicable statute of limitations."[11] This Court has also concluded that there is no inherent unreasonableness in a six-month period of limitations in cases alleging civil rights violations.[12] We are further not convinced by plaintiff's contention that six months was insufficient time to provide her the opportunity to investigate and file an action given defendant's internal mechanisms for reporting and investigating sexual discrimination claims. In this regard, we note that plaintiff fails to provide any further explanation for this argument, and there is nothing in the record to indicate that the company's investigation into a claim of harassment would take more than six months. Accordingly, plaintiff has failed to demonstrate that the six-month period was unreasonable.

Plaintiff's argument that language contractually modifying a statute of limitations should be in bold print, easily readable, conspicuous, not overly broad, and contain the exact language used in the contract in *Timko*,[13] to ensure that employees have knowledge that they are specifically waiving their rights, is without merit. Our Supreme Court has stated, "[w]ritten contracts are not to be held void merely because of detail or complexity of their content, or because of the type, or form of composition in which they are printed."[14] Here the contractual limitations language is in small print, but it is still readable and in plain language.[15]

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Jessica R. Cooper

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[10] See *Myers v Western-Southern Life Ins Co*, 849 F2d 259, 260, 262 (CA 6, 1988) (holding that similar contract language was clear).

[11] *Camelot Excavating Co, Inc, v St Paul Fire & Marine Ins Co*, 410 Mich 118, 126; 301 NW2d 275 (1981).

[12] *Timko v Oakwood Custom Coating, Inc*, 244 Mich App 234, 242; 625 NW2d 101 (2001).

[13] *Id*. at 236.

[14] *HH King Flour Mills Co v Bay City Baking Co*, 240 Mich 79, 83; 214 NW 973 (1927).

[15] See *Myers, supra* at 260, 262.