Third District Court of Appeal

State of Florida

Opinion filed September 16, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1834
Lower Tribunal No. 13-35751

2711 Hollywood Beach Condominium Association, Inc.,
Appellant,

vs.

TRG Holiday, LTD., etc., et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Jennifer D. Bailey, Judge.

Siegfried, Rivera, Hyman, Lerner, De La Torre, Mars & Sobel, P.A., Stuart Sobel and Steven M. Siegfried; Colson Hicks Eidson P.A., W. Allen Bonner and Patrick Montoya, for appellant.

Bowman and Brooke LLP, and Wendy F. Lumish, Donald A. Blackwell and Alina Alonso Rodriguez, for appellee Nibco, Inc.

Shook, Hardy & Bacon L.L.P., and Daniel B. Rogers; Shook, Hardy & Bacon L.L.P., and Philip S. Goldberg (Washington, D.C.), for National Association of Manufacturers, as amicus curiae.

Before LOGUE, HENDON and GORDO, JJ.

PER CURIAM.

2711 Hollywood Beach Condominium Association appeals the trial court's order granting Nibco Inc.'s motion for partial summary judgment on the Association's negligence and strict product liability claims. Specifically, the Association appeals the trial court's finding with respect to the economic loss rule. For the reasons that follow, we affirm.

The Association purchased the condominium building from the developer. The building included a fire suppression system ("FSS"), which was installed during construction. The FSS was to be composed of Blazemaster chlorinated polyvinyl chloride pipe; Lubrizol Advanced Materials, Inc., galvanized steel pipe coated with an interior antimicrobial coating; and Blazemaster CPVC fittings. A portion of the fittings incorporated into the FSS were purchased from Nibco. Nibco manufactured its fittings through a process using Blazemaster CPVC resin purchased from Lubrizol.

Eventually, the Association noticed leaks in the FSS. The Association then filed suit against several parties involved in the construction of the building as well as numerous manufacturers of component parts of the FSS, including Nibco, seeking damages for future repairs and replacement of the FSS. Nibco moved for partial summary judgment on the Association's negligence and strict liability claims based on the economic loss rule. Nibco, citing to Casa Clara Condominium Association v. Charley Toppino & Sons, Inc., 620 So. 2d 1244, 1247 (Fla. 1993), argued that the

economic loss rule limited a defendant's tort liability for allegedly defective products to injuries caused to persons or damage caused to property other than the defective product itself.

The trial court held a hearing regarding the application of the economic loss rule. At the hearing, the Association conceded that Casa Clara was binding on the trial court but urged the court not to apply it for policy reasons. The trial court partially granted the motion for summary judgment, finding that because the FSS was a part of the building, the economic loss rule barred the Association's claims against Nibco. The trial court subsequently entered judgment in favor of Nibco, and this appeal followed.

In Casa Clara, the Florida Supreme Court held that to the extent a products liability claim arises in the context of real estate, the economic loss rule applies. 620 So. 2d at 1247–48. The court applied the "object of the bargain" rule—in order "to determine the character of a loss, one must look to the product purchased by the plaintiff, not the product sold by the defendant." Id. at 1247 (citing King v. Hilton–Davis, 855 F.2d 1047 (3d Cir. 1988)). The allegedly defective material in Casa Clara, the concrete, was an "integral part of the finished product," and, as such, the injury it caused was not considered damage to "other" property. Id.

The Association bargained for, purchased and received a building; Nibco's fittings were only a component of the FSS, incorporated into the building. Applying

the rule set forth in Casa Clara, the Association purchased a completed building from the developer. Nibco's fittings were "an integral part of the finished product and, thus, did not injure 'other' property." Id.; see also Saratoga Fishing Co. v. J.M. Martinac & Co., 520 U.S. 875, 883 (1997) (stating that parts and fittings that become integral components of something else "constitute a single product for purposes of the economic loss doctrine" because "all but the very simplest machines have component parts" and any other holding "would require a finding of 'property damage' in virtually every case where a product damages itself." (quoting Va. Sur. Co. v. Am. Eurocopter Corp., 955 F. Supp. 1213, 1216 (D.Haw. 1996); E. River S.S. Corp. v. Transamerica Delaval, Inc., 476 U.S. 858, 867 (1986)). Injury to the building itself is not injury to "other" property because the product purchased by the Association was the building. See Casa Clara, 620 So. 2d at 1247. The economic loss rule therefore bars the Association's recovery as to Nibco to the extent that it sought damages to replace the FSS and repair damage to the building.

On appeal, the Association again concedes that Casa Clara is good law but argues that this Court should refrain from applying it here for policy reasons. We decline that invitation. In the over thirty years the economic loss rule has been applied by Florida courts, the Florida Supreme Court has carved out several exceptions. This case, however, falls squarely within the parameters of the rule.

We therefore affirm the trial court's grant of partial summary judgment and entry of final judgment as to Nibco.

Affirmed.