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AFFIRMED

Plaintiff/Appellant, Rory Lewis appeals the judgment of the district court granting Defendant's/Appellant's, Prudential Property and Casualty Insurance Company's, Exception of Res Judicata and dismissing Prudential Property and Casualty Insurance Company from this litigation with prejudice. Following a review of the record, we affirm the judgment of the district court.

Facts

On October 4th, 1993, Mr. Lewis was injured in a car accident. At the time of the accident, Mr. Lewis was with Jena LaCour who was insured by Prudential Property and Casualty Insurance Company (hereinafter "Prudential"). Mr. Lewis filed suit against Ms. LaCour and Prudential for the injuries he sustained.

Subsequently, Prudential filed a report alleging that Mr. Lewis had committed insurance fraud with respect to the October 4th accident and Mr.

Lewis was arrested on November 16, 1996 on these charges. On August 15, 1997, Mr. Lewis settled his claim for injuries against Prudential for a total of \$225,000. The parties entered into a General Receipt and Release and Indemnity Agreement (hereinafter “Release”). On October 24, 1997, the Orleans Parish District Attorney’s Office nolle prosecuted the fraud case against Mr. Lewis.

On October 23, 1998, Mr. Lewis filed a Petition for Damages against Prudential alleging false arrest, false imprisonment and malicious prosecution in the Civil District Court for the Parish of Orleans. Prudential filed an Exception of Res Judicata alleging that the language in the Release precluded Mr. Lewis from bringing suit for malicious prosecution and false imprisonment.

The district court granted the defendant’s exception relying on the “four corners” of the Release and reasoned that Mr. Lewis’ claims were extinguished upon execution of the Release. It is from this judgment that Mr. Lewis appeals.

Argument

Extrinsic Evidence

Mr. Lewis argues that the district court erred in not considering the affidavits filed in opposition to Prudential’s Exception of Res Judicata. Both

Mr. Lewis and his attorney at the time of settlement, Donald Carmouche, filed affidavits stating that the parties had not contemplated the claim for malicious prosecution and that the release of this type of claim was never discussed.

Prudential contends that even if the district court failed to consider Mr. Lewis' affidavits, said failure is not reversible error. Prudential, as well as the district court relied on the Supreme Court's reasoning in *Brown v. Drillers, Inc.*, 93-1019 (La. 1/14/94), 630 So. 2d 741, that absent substantiating evidence of mistaken intent, there is no reason to look beyond the four corners of the document to ascertain intent. In *Thompson v. Bank of New Orleans and Trust Company*, 422 So. 2d 230 (La. App. 4 Cir. 11/2/82), the plaintiff was precluded from seeking damages for malicious prosecution from defendant because the court held that the language in the agreement specifically released defendant from all "causes of action" arising from the incident. "In order to ascertain whether there was an intent of the parties here to release a claim such as this one for malicious prosecution, it is necessary to carefully analyze the wording of the agreement", *Id. at 232*.

In the instant case, the language in the Release is clear:

“...Claimant Rory Lewis does hereby release and forever discharge...PRUDENTIAL PROPERTY AND CASUALTY INSURANCE COMPANY...from *any and all actions*, claims and demands (including claims or actions for

contribution and/or indemnity of whatever nature) which claimant *now has, or may hereafter have*...arising out of an automobile accident occurring in the Parish of Orleans..." (*Emphasis added*).

The intent of the parties can be ascertained from the language employed in the Release. Thus, according to *Brown*, the district court was under no obligation to consider the extrinsic evidence once it found that the four corners of the document applied. In *Maltby v. Gauthier*, 526 So. 2d 455 (La. App. 5 Cir. 1986), *writ denied*, 531 So. 2d 474 (La. 1988), the court reasoned that the meaning and intent of compromise agreements must be sought within the four corners of document, and parol evidence is inadmissible, except to show errors in calculation, error in person or on matter in dispute, or for fraud or violence. *Maltby* arose from a medical malpractice claim in which Robin Maltby alleged that the surgery performed on her by the defendants was done negligently and rendered her unable to bear children. Defendants urged prescription and prevailed at both the trial and appellate levels. From there, the parties agreed to compromise the claim for \$30,000. Ms. Maltby alleged that the funds were not timely disbursed and sought to rescind the settlement offer. The appellate court found that despite the delay in paying the money to Ms. Maltby, the compromise agreement remained valid and the judgment of the trial court was affirmed.

The language of the Release herein is *not* “extremely broad” as described by Mr. Lewis, and if it was, it would have been appropriate for Mr. Lewis’ attorney to have advised him of the broad language prior to signing. The district court reasoned orally that “[t]he clear language of the release document executed by plaintiff and Prudential as well as the jurisprudence support this ruling,” thus concluding that “[a]lthough the doctrine of res judicata is normally based on the conclusive legal presumption of the ‘thing adjudged’ between the same parties, the doctrine is also applicable where a transaction or settlement of a disputed or compromised matter has been entered into between parties.” *Thompson v. Bank of New Orleans and Trust Company*, 422 So. 2d 230 (La. App. 4th Cir. 1982). The district court did not err in granting Prudential’s exception because the doctrine of res judicata applies in this instance where the parties entered into a settlement. Furthermore, it was not required that the district court consider Mr. Lewis’ extrinsic evidence when the court applied the “four corners” reasoning.

Accrual of Malicious Prosecution Claim

Mr. Lewis further argues that the district court erred in finding that his claim for malicious prosecution had accrued at the time the Release was executed. He contends that his cause of action had not in fact accrued at the

time the Release was signed and that the district court applied the law incorrectly when it stated “...[t]here is a difference between when the action is—has arisen and when it actually vests.” The district court relied on *Thompson v. Bank of New Orleans and Trust Company* whereby the bank filed an Exception of Res Judicata based upon the language of the release agreement after Thompson filed charges against the bank for malicious prosecution. The appellate court affirmed the district court’s decision granting the exception. The case at bar and *Thompson v. Bank of New Orleans and Trust Company* are analogous and the district court was on point in relying on this case.

Mr. Lewis’ cause of action for malicious prosecution arose from the events on the day of the accident, October 4, 1993. At the hearing on the exception, the district judge stated:

“...damages to a person could also be damages in the form of reputation, *or malicious prosecution*, or any of the other things that were mentioned. I mean, the plaintiff tries to give the indication that it was only my injuries.

Well, that’s not what it says. And, when you talk about just looking at the four corners of that document, I think, the *Thompson* case cited by the mover is persuasive. And, I did look at your case, you know, the *Brown* case, but the big distinction there is the fact that in *Brown* the cause of action hadn’t yet arisen.” (*Emphasis added*)

In *Brown v. Drillers, Inc.*, 93-1019 (La. 1/14/94), 630 So. 2d 741, the

Supreme Court reversed the Court of Appeal's decision and held that the wife of the deceased *was able* to bring a wrongful death action against her husband's employer although she entered into a compromise and settlement. However in *Brown*, unlike the instant case, the circumstances differ in that at the time of execution of the Release the cause of action (wrongful death) had not arisen. Mr. Lewis' malicious prosecution claim had arisen at the time of the Release. Mr. Lewis' claims were a direct result of the October accident and the district court correctly recognized that these claims had already come to surface prior to the signing of the Release.

Mr. Lewis furthers his argument by quoting the reasoning in *Walls v. State*, 95-1133, p. 6 (La. App. 3 Cir. 1/31/96), 670 So. 2d 382, 385, "a cause of action for malicious prosecution does not arise until the termination of the prosecution." Prudential agrees that in order to prosecute such a claim, the criminal proceeding must be dismissed favorably to the plaintiff. However, even by relying on the above reasoning it does not change the fact that Mr. Lewis signed a Release and within the terms of that Release, he was barred from *all actions* arising out of the accident. At the time of signing, Mr. Lewis was unaware of what the outcome of the criminal proceeding was going to be. Had he not signed the Release, he would have reserved his right to file his claim after the District Attorney's Office nolle prosecuted it.

The district court did not err in finding that Mr. Lewis' malicious prosecution claim had accrued.

Decree

For the foregoing reasons, we hereby affirm the judgment of the district court.

AFFIRMED