

STATE OF MICHIGAN
COURT OF APPEALS

SCOTT REDLIN and CHERYL REDLIN,

Plaintiffs-Appellants,

v

WALTER TOEBE CONSTRUCTION COMPANY,

Defendant-Appellee.

UNPUBLISHED

December 4, 1998

No. 202677

Wayne Circuit Court

LC No. 95-517731 NO

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiffs appeal by right the trial court's order granting defendant's motion for summary disposition under MCR 2.116(C)(10). We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Scott Redlin was injured while working as a mason tender for a subcontractor on a construction project. Defendant was the general contractor on the project. A number of subcontractors were scheduled to work sequentially on the site. Plaintiffs brought this action against defendant alleging that it had the duty to take reasonable steps to guard against dangers in common work areas under *Funk v General Motors Corp*, 392 Mich 91; 220 NW2d 641 (1974). The trial court granted defendant's motion for summary disposition, finding this theory inapplicable where the subcontractors only worked sequentially on the project.

A general contractor may be held liable for a subcontractor's negligence where the general contractor fails to take reasonable precautions against readily observable, avoidable dangers in common work areas that create a high degree of risk to a significant number of workers. *Plummer v Bechtel Construction Co*, 440 Mich 646, 666; 489 NW2d 66 (1992); *Phillips v Mazda Motor Mfg (USA) Corp*, 204 Mich App 401; 516 NW2d 502 (1994). It is not necessary that other subcontractors be working on the same site at the same time; the common work area rule merely requires that employees of two or more subcontractors eventually work in the area. *Id.*, 408; *Hughes v PMG Building, Inc*, 227 Mich App 1, 6; 574 NW2d 691 (1997); *Erickson v Pure Oil Corp*, 72 Mich App 330, 337; 249 NW2d 411 (1976).

The trial court erred in finding that the common work area rule was inapplicable where multiple subcontractors were not working simultaneously on the project. Case law only requires that employees of two or more subcontractors eventually work in the area. *Id.*

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra