STATE OF MICHIGAN

COURT OF APPEALS

GREG SIMPSON,

Plaintiff-Appellant,

v

AUKEMAN DEVELOPMENT COMPANY,

Defendant-Appellee.

UNPUBLISHED
May 2, 2000

No. 215155
Ottawa Circuit Court
LC No. 96-025074-NO

Before: Wilder, P.J., and Sawyer and Markey, JJ.

MEMORANDUM.

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

Plaintiff was employed by a subcontractor as a roofer on a construction project. Defendant was the general contractor. Plaintiff was injured when he fell from the roof. He brought this action alleging that defendant failed to take steps to guard against unreasonable risks to workers on the site.

As a rule, a general contractor is not liable for the injuries of a subcontractor's employee. *Groncki v Detroit Edison Co,* 453 Mich 644, 662; 557 NW2d 289 (1996). An exception to this general rule applies when there are avoidable dangers in a common work area. To find liability under this exception, there must be: 1) a general contractor with supervisory and coordinating authority over the job site, 2) a common work area shared by the employees of more than one subcontractor, and 3) a readily observable and avoidable danger in that common work area, 4) that creates a high degree of risk to a significant number of workers. *Id.*

At a minimum, for a general contractor to be held directly liable in negligence, its retention of control must have had some actual effect on the manner or environment in which the work was performed. *Candelaria v B C General Contractors, Inc,* 236 Mich App 67, 76; 600 NW2d 348 (1999). In order for a common work area to exist, there must be an area where the employees of two or more subcontractors will eventually work. *Phillips v Mazda Motor Mfg,* 204 Mich App 401, 408; 516 NW2d 502 (1994).

In *Hughes v PMG Building, Inc,* 227 Mich App 1; 574 NW2d 691 (1997), the plaintiff was a roofer hired as an independent contractor. He was injured when a porch he was working on collapsed because of inadequate support. This Court found that the roof was not a common work area. Although the porch was constructed by another subcontractor, no other trade would be working on the roof, thus no one else would be subject to the same hazard. *Id.* at 6-7.

Plaintiff argues that *Hughes* was wrongly decided because prior Supreme Court cases had found a common work area under similar circumstances. However, the focus of the cases relied on by plaintiff is on risk to workers who would be present in the area in the future. While carpenters constructed the underlying portion of the roof, once they completed their task, only the roofers would be using that work area. The trial court properly applied *Hughes* in granting summary disposition to defendant.

We affirm.

/s/ Kurtis T. Wilder
/s/ David H. Sawyer
/s/ Jane E. Markey