

STATE OF MICHIGAN  
COURT OF APPEALS

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DARLENE E. COX and JERRY O. COX,

Plaintiffs-Appellees,

v

SYLVAN TREETOPS RESORT and MELLING  
RESORTS INTERNATIONAL,

Defendants-Appellants.

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UNPUBLISHED

December 21, 2001

No. 224414

Otsego Circuit Court

LC No. 96-006683-NO

Before: Bandstra, C.J., and Fitzgerald and Gage, JJ.

PER CURIAM.

Defendants appeal as of right an order denying their motion to vacate or modify an arbitration award. We affirm.

Plaintiff Darlene Cox (plaintiff) suffered serious injuries in a slip and fall accident on defendants' property. The parties submitted their claim to arbitration, and plaintiff was awarded \$80,000. Defendants' motion in circuit court to vacate or modify the arbitration decision was denied. On appeal, defendants argue that the arbitrator erroneously applied the law and erroneously interpreted the facts.

Here, the parties' arbitration agreement does not manifest the intent of the parties to have the arbitration award enforceable by a circuit court. Thus, this case involves common law arbitration rather than statutory arbitration. *Hetrick v Friedman*, 237 Mich App 264, 268; 602 NW2d 603 (1999); *Tripp Excavating Contractor Inc v Jackson Co*, 60 Mich App 221, 236, 237; 230 NW2d 556 (1975).

A common law arbitration award will be upheld absent instances of bad faith, fraud, misconduct, or manifest mistake. *Emmons v Lake States Ins*, 193 Mich App 460, 466; 484 NW2d 712 (1992). The standard and scope of review of common law arbitration is limited to the following factors: (1) fraud on the part of the arbitrator; (2) fraud or misconduct of the parties affecting the result; (3) gross unfairness in the conduct of the proceeding; (4) want of jurisdiction in the arbitrator; (5) violation of public policy; and (6) want of entirety in the award. *Frazier v Ford Motor Co*, 364 Mich 648, 655; 112 NW2d 80 (1961). Defendants have not alleged any of

these factors with respect to any of their arguments.<sup>1</sup> Rather, defendants allege only that manifest mistake occurred when the arbitrator erroneously applied the law and erroneously interpreted the facts. An arbitrator's factual or legal conclusions are not proper subjects for judicial review. *Frazier, supra* at 656; *Tripp, supra* at 251.

Affirmed.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Hilda R. Gage

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<sup>1</sup> Although defendants failed to assert an appealable issue with regard to their argument that the arbitrator wrongfully failed to apply the collateral source rule, MCL 600.6303, we note that the arbitrator was presented with evidence that Blue Cross/Blue Shield paid medical benefits on behalf of plaintiff in the amount of \$17,765 and that Blue Cross/Blue Shield placed a lien against any arbitration award in this amount. Indeed, the arbitrator specifically referred to the medical expenses of \$17,765 in the arbitration award.