

No. 02-721

IN THE SUPREME COURT OF THE STATE OF MONTANA

2003 MT 147N

GEORGE R. SMITH and LOIS M. SMITH,

Plaintiffs and Appellants,

v.

CHESTER HART and PETER SMITH,

Defendants and Respondents.

APPEAL FROM: District Court of the Tenth Judicial District,
In and for the County of Fergus, Cause No. DV-02-39,
The Honorable E. Wayne Phillips, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

George R. Smith and Lois M. Smith, *Pro Se*, Lewistown, Montana

For Respondents:

James L. Stogsdill; Stogsdill Law Office, Lewistown, Montana

Submitted on Briefs: May 1, 2003

Decided: May 20, 2003

Filed:

Clerk

Chief Justice Karla M. Gray delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court.

¶2 George R. and Lois M. Smith (the Smiths) appeal from the judgment entered by the Tenth Judicial District Court, Fergus County, on its orders granting summary judgment to Chester Hart and Peter Smith (collectively, Respondents) and imposing sanctions on the Smiths pursuant to Rule 11, M.R.Civ.P. We affirm.

¶3 The Smiths filed a complaint in the District Court requesting declaratory judgment and damages for breach of contract, breach of fiduciary duty and breach of the implied covenant of good faith and fair dealing. The court subsequently granted summary judgment to the Respondents, dismissed the Smiths' complaint with prejudice and imposed sanctions pursuant to Rule 11, M.R.Civ.P., on the bases that the complaint was not supported by existing law and was filed for an improper purpose. The Smiths assert error.

¶4 We have determined to decide this case pursuant to our Order dated February 11, 2003, amending Section 1.3 of our 1996 Internal Operating Rules and providing for memorandum opinions. On the face of the briefs and the record before us on appeal, it is manifest that the appeal is without merit because the issues clearly are controlled by settled

Montana law which the District Court has interpreted correctly and there is sufficient evidence to support the court's findings of fact.

¶5 We affirm the judgment of the District Court.

/S/ KARLA M. GRAY

We concur:

/S/ JIM REGNIER

/S/ PATRICIA COTTER

/S/ JIM RICE

/S/ W. WILLIAM LEAPHART