COURT OF APPEALS
DECISION
DATED AND FILED

August 3, 2004

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. ***See*** **WIS. STAT. § 808.10 and RULE 809.62.**

Appeal No. 03-1940

Cir. Ct. No. 01CV001177

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

DALE L. KNAFELC,

PLAINTIFF-APPELLANT,

V.

PROSOURCE PROPERTIES, LTD.,

DEFENDANT-THIRD-
PARTY PLAINTIFF-RESPONDENT,

FARMERS INSURANCE GROUP, A/K/A FIRE INSURANCE EXCHANGE,

DEFENDANT,

V.

THE GEISLER GROUP, INC.,

THIRD-PARTY DEFENDANT,

JEFFREY ROBERTSON AND JAMIE ROBERTSON,

THIRD-PARTY DEFENDANTS-
FOURTH-PARTY PLAINTIFFS,

v.

USAA CASUALTY INSURANCE COMPANY,

FOURTH-PARTY DEFENDANT.

APPEAL from a judgment of the circuit court for Brown County: DONALD R. ZUIDMULDER, Judge. *Reversed and cause remanded.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Dale Knafelc appeals a summary judgment dismissing her breach of contract action against Prosource Properties, Ltd., based on its failure to install a new roof. Knafelc purchased a residence previously owned by Jeffrey and Jamie Robertson from Prosource, a relocation company. The accepted offer to purchase provided "If the roof has not been completely installed, seller to complete installation of the new roof prior to closing." A rider to the agreement stated that any disagreements between the rider and the sales agreement shall be conclusively governed by the rider. It further stated that the property is sold "as is," and it established a procedure for inspection, notification of defects and the seller's right to cure. The trial court concluded that the contract did not give Knafelc the right to a new roof. Because we conclude that the contract entitles Knafelc to a "new roof," we reverse the summary judgment and remand the case for trial on the meaning of the term "new roof" and whether Prosource breached the agreement by patching the old roof.

¶2 When construing the contract, we consider the contract as a whole, *see* ***Tempelis v. Aetna Cas. & Surety Co.***, 169 Wis. 2d 1, 9, 485 N.W.2d 217

(1992), and we attempt to give a reasonable meaning to each provision and avoid a construction that renders portions of the contract meaningless. *See* ***Isermann v. MBL Life Assur. Corp.***, 231 Wis. 2d 136, 153, 605 N.W.2d 210 (Ct. App. 1999). The courts must avoid any unusual or extraordinary interpretation that would lead to an absurd result. *See* ***Western Cas. & Surety Co. v. Budrus***, 112 Wis. 2d 348, 351, 332 N.W.2d 837 (Ct. App. 1983). Specific provisions prevail over general provisions, *see* ***Goldmann Trust v. Goldmann***, 26 Wis. 2d 141, 148, 131 N.W.2d 902 (1965), and a handwritten insert prevails over printed "boilerplate" provisions. *See* ***Kuranda v. O'Connor***, 23 Wis. 2d 51, 57, 126 N.W.2d 568 (1964).

¶3 Applying these rules of construction, we conclude that the handwritten contingency that required the seller to complete installation of the new roof entitled Knafelc to a new roof. The only reasonable construction of the contract as a whole is that the provisions of the rider do not apply to the "new roof" provision. The clauses in the rider apply to other hidden or latent defects that might be discovered through the inspection process. The rider states as the reason for the "as is" clause is that seller has never occupied the property and would therefore be unaware of any latent defects. The Robertsons, Knafelc, the joint real estate agent and Prosource's representative all acknowledged the need for a new roof before the sale. Jeffrey Robertson agreed to replace the roof and personally reshingled portions of it. Construing the agreement to require compliance with the "new roof" provision despite the "as is" and inspection provisions, gives meaning to every clause in the contract, allows the specific handwritten provision to override the boilerplate language and avoids the absurd result of specifically demanding a new roof and waiving that demand in the same agreement.

¶4 Prosource correctly notes that the term "new roof" is not defined in the contract and is susceptible to more than one interpretation. It is not clear that the repair work done by Robertson would meet even the least onerous definition of a "new roof." It is the jury's function to determine the parties' intent when using that undefined term and to decide whether the roof that was installed meets the parties' expectations. *See* ***Management Comp. Serv., Inc. v. Hawkins, Ash, Baptie & Co.***, 206 Wis. 2d 158, 177, 557 N.W.2d 67 (1996).

By the Court.—Judgment reversed and cause remanded.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (2001-02).