

SUPREME COURT OF INDIANA

Lawrence Gunkel and Judy Lynn Gunkel v. Renovations, Inc. and J & N Stone, Inc.

822 N.E.2d 150 (Ind. 2005) · No. No. 76S01-0403-CV-133 · Decided February 1, 2005

SUMMARY

The Supreme Court of Indiana addresses whether the economic loss doctrine bars tort recovery for damage arising from a defective construction service. It holds that the doctrine applies regardless of whether the transaction is governed by the Products Liability Act or the Uniform Commercial Code, but permits tort recovery for damage to separately acquired property other than the defective product or service itself. The court reverses summary judgment on the negligence claim and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Boehm, Justice; Boehm; Shepard; Dickson; Rucker; Sullivan
JURISDICTION	Indiana
DECIDED	February 1, 2005
DOCKET	No. 76S01-0403-CV-133
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiffs appealed summary judgment for J & N Stone, Inc. on their negligence claim. The Indiana Supreme Court granted transfer after the Court of Appeals affirmed, and it reviewed the summary judgment ruling de novo.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the trial court: it is proper only when the evidence shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Facts and reasonable inferences are construed in favor of the nonmoving party, and appellate review is limited to materials designated to the trial court.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Lawrence Gunkel, Judy Lynn Gunkel v. Renovations, Inc., J & N Stone, Inc.

TOPICS

construction law negligence torts contracts commercial litigation

PRACTICE AREAS

torts construction law contracts remedies commercial litigation

QUESTIONS PRESENTED

1. Whether the economic loss doctrine governs tort damages arising from a defective service or product outside a transaction governed by the Products Liability Act or the Uniform Commercial Code.
2. Whether damage to portions of a home caused by the allegedly negligent installation of a separately acquired stone facade constitutes damage to other property recoverable in tort.
3. Whether summary judgment was proper on the Gunkels' negligence claim.

HOLDINGS

1. Damages recoverable in tort for a defective product or service are governed by the economic loss doctrine regardless of whether the transaction is subject to the Indiana Products Liability Act, the Uniform Commercial Code, or both.
2. Under Indiana's economic loss doctrine, property acquired separately from the defective good or service is other property, even if it is incorporated into the same physical object.
3. The economic loss doctrine barred tort recovery for damage to the stone facade itself but did not bar tort recovery for damage to the home and its components allegedly caused by negligent installation of the separately acquired facade.

KEY QUOTATIONS

“We hold that damages recoverable in tort for a defective product or service are governed by the “economic loss” doctrine whether or not the product or service is supplied in a transaction subject to either the Products Liability Act or the Uniform Commercial Code, or both.” (150)

“Under the doctrine, physical injuries and damages to other property are recoverable in tort, but damages to the defective product itself are not.” (150)

“The economic loss rule does not bar recovery in tort for damage that a separately acquired defective product or service causes to other portions of a larger product into which the former has been incorporated.” (156)

FACTUAL BACKGROUND

The Gunkels contracted with Renovations, Inc. to construct a three-story residence and separately hired J & N Stone, Inc. to install a stone and masonry exterior. Shortly after installation, water entered through gaps in the facade, allegedly damaging walls, ceilings, floors, drywall, carpet, carpet padding, and other portions of the home. The Gunkels sought repair costs and other losses, but ultimately pursued only a negligence claim against J & N after abandoning their contract claim against it.

PROCEDURAL HISTORY

The Gunkels sued Renovations, Inc. for breach of contract and fraud and later added J & N Stone, Inc., asserting negligence and breach of contract. The trial court granted J & N partial summary judgment on the contract claim and later granted summary judgment on the negligence claim under the economic loss doctrine; the order was certified for immediate appeal under Trial Rule 54(B). The Court of Appeals affirmed, but the Supreme Court granted transfer and reversed the negligence summary judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion after reversal of summary judgment on the negligence claim.

CASES CITED

- Gunkel v. Renovations, Inc., 797 N.E.2d 841 (Ind. Ct. App. 2003)
- Gunkel v. Renovations, Inc., 812 N.E.2d 799 (Ind. 2004)
- Shell Oil Co. v. Lovold Co., 705 N.E.2d 981 (Ind. 1998)
- Colonial Penn Ins. v. Guzorek, 690 N.E.2d 664 (Ind. 1997)
- Rosi v. Bus. Furniture Corp., 615 N.E.2d 431 (Ind. 1993)
- Estate of Shebel v. Yaskawa Elec. Am., Inc., 713 N.E.2d 275 (Ind. 1999)
- Miller v. United States Steel Corp., 902 F.2d 573 (7th Cir. 1990)
- Reed v. Central Soya Co., Inc., 621 N.E.2d 1069 (Ind. 1993)
- Martin Rispens & Son v. Hall Farms, Inc., 621 N.E.2d 1078 (Ind. 1993)
- Progressive Insurance Co. v. General Motors Corp., 749 N.E.2d 484 (Ind. 2001)
- Fleetwood Enterprises, Inc. v. Progressive Northern Insurance Co., 749 N.E.2d 492 (Ind. 2001)
- Am. United Logistics, Inc. v. Catellus Dev. Corp., 319 F.3d 921 (7th Cir. 2003)
- Seely v. White Motor Co., 63 Cal. 2d 9, 403 P.2d 145 (1965)
- Choung v. Iemma, 708 N.E.2d 7 (Ind. Ct. App. 1999)
- King v. Hilton-Davis, 855 F.2d 1047 (3d Cir. 1988)
- Airlift Int'l, Inc. v. McDonnell Douglas Corp., 685 F.2d 267 (9th Cir. 1982)
- Jimenez v. Superior Court, 29 Cal. 4th 473, 58 P.3d 450 (2002)
- East River Steamship Corp. v. Transamerica Delaval, Inc., 476 U.S. 858 (1986)
- Saratoga Fishing Co. v. J.M. Martinac & Co., 520 U.S. 875 (1997)