UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Bierman v. Marcus

Bierman v. Marcus, 140 F. Supp. 66 (D.N.J. 1956) · Decided March 12, 1956

SUMMARY

The opinion addresses an interpleader action concerning competing claims to installment payments arising from the sale of stock in Milmar Estate, Inc. The court considers federal interpleader jurisdiction, adverse claimants, governing New York contract law, the existence and interpretation of the stock-sale agreement, and related corporate and tort claims.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Modarelli
JURISDICTION	New Jersey
DECIDED	March 12, 1956
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought an interpleader action under 28 U.S.C. § 1335 concerning competing claims to installment payments under a stock-sale transaction. After a bench trial, the court resolved the jurisdictional, contract, fraud, and loan issues and directed that an order be submitted conforming to its findings and conclusions.
STANDARD OF REVIEW	Bench-trial fact finding under the preponderance-of-the-evidence standard; contract interpretation and applicable legal rules were determined under New York law.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority.

TOPICS

interpleader · subject matter jurisdiction · contract interpretation · fraud · contracts

PRACTICE AREAS

civil procedure · contracts · commercial litigation · corporate law · torts

QUESTIONS PRESENTED

1. Whether the court had jurisdiction under 28 U.S.C. § 1335 despite the common citizenship of plaintiff Miller and defendant Milmar.
2. Whether Marcus and Milmar were adverse claimants within the meaning of the Interpleader Act.
3. What substantive law governed interpretation of the transaction documents.
4. Whether the parties entered into a contract on September 14, 1948, and whether the contract covered all 1,250 shares of Milmar stock.
5. Whether Marcus was fraudulently induced to enter into the contract.
6. Whether Milmar owed Marcus money allegedly loaned to the corporation.

HOLDINGS

1. The court had jurisdiction under 28 U.S.C. § 1335 because the relevant adverse claimants were diverse, and the common citizenship of plaintiff Miller and defendant Milmar did not defeat jurisdiction where they had no active controversy concerning the deposited fund.
2. Marcus and Milmar were adverse claimants because Marcus claimed entitlement to the unpaid purchase-price balance and Milmar, as the named seller in the transaction document, might claim the same money.
3. New York substantive law governed the validity and interpretation of the contract documents because they were executed in New York, applying New Jersey's conflict-of-laws rule.
4. The parties entered into an enforceable contract on September 14, 1948, under which Bierman and Miller purchased all 1,250 issued shares of Milmar stock for $125,000, subject to the stated installment and related obligations.
5. Marcus was not entitled to rescission for fraudulent inducement because he failed to prove a material misrepresentation and failed to prove that any alleged misrepresentation deceived or materially influenced him.
6. Marcus failed to establish that Milmar owed him the $46,801.23 allegedly remaining from loans to the corporation.

KEY QUOTATIONS

> “*There is no doubt that the parties intended to make a contract.*” (76)

> “*The ascertainment of the substantial intent of the parties is the fundamental rule in the construction of all contracts.*” (77)

FACTUAL BACKGROUND

Marcus, Miller, Bierman, and others were involved in the ownership and operation of Milmar Estate, Inc., a New Jersey corporation owning the Riviera property and leasing it to a nightclub corporation. On September 14, 1948, the parties executed a series of documents providing for the sale of all 1,250 issued shares of Milmar stock to Bierman and Miller for $125,000, payable partly in cash and partly through installment obligations secured by mortgages, with stock placed in escrow. Marcus later disputed the existence or scope of the contract, alleged fraudulent inducement, and claimed that Milmar owed him more than $46,000 in loans. The court found that the parties intended to enter a contract for the sale of all Milmar stock, that Marcus was not fraudulently induced, and that Marcus failed to prove the alleged loans.

PROCEDURAL HISTORY

Bierman and Miller filed the interpleader action on December 28, 1950, deposited installment payments into the court registry, and obtained an injunction requiring Marcus and Milmar to interplead and refrain from invoking the contract's acceleration clause. The court later joined Kevelson to Marcus's counterclaim, conducted a nineteen-day bench trial, and issued this opinion resolving the principal issues. The court reserved decision on Milmar's cross-claim concerning whether Marcus owned or had rights in stock certificates issued before September 14, 1948.

DISPOSITION

other

CASES CITED

- Treinies v. Sunshine Mining Co., 308 U.S. 66, 60 S. Ct. 44, 84 L. Ed. 85 (1939)
- Boice v. Boice, 135 F.2d 919, 920 (3d Cir. 1943)
- Kerrigan's Estate v. Joseph E. Seagram & Sons, 199 F.2d 694 (3d Cir. 1952)
- Klaxon Co. v. Stentor Electric Manufacturing Co., 313 U.S. 487, 61 S. Ct. 1020, 85 L. Ed. 1477 (1941)
- Colozzi v. Bevko, Inc., 17 N.J. 194, 202, 110 A.2d 545 (1955)
- James H. Rhodes & Co. v. Chausovsky, 137 N.J.L. 459, 462, 60 A.2d 623 (1948)
- Hinkly v. Freick, 86 N.J.L. 281, 283, 90 A. 1108, L.R.A. 1916B, 1041 (1913)
- Aron v. Gillman, 309 N.Y. 157, 163, 128 N.E.2d 284, 288 (1955)
- Madawick Contracting Co. v. Travelers Insurance Co., 307 N.Y. 111, 119, 120 N.E.2d 520 (1954)
- O'Neil Supply Co. v. Petroleum Heat & Power Co., 280 N.Y. 50, 55-56, 19 N.E.2d 676 (1939)
- Wirth & Hamid Fair Booking, Inc. v. Wirth, 265 N.Y. 214, 219, 192 N.E. 297 (1934)
- Becker v. Peter A. Frasse & Co., 255 N.Y. 10, 14, 173 N.E. 905 (1930)
- Empire Properties Corp. v. Manufacturers Trust Co., 288 N.Y. 242, 248-49, 43 N.E.2d 25, 28 (1942)
- Halsted v. Globe Indemnity Co., 258 N.Y. 176, 180, 179 N.E. 376, 377 (1931)
- Bloomquist v. Farson, 222 N.Y. 375, 380, 118 N.E. 855 (1918)
- O'Neil Supply Co. v. Petroleum Heat & Power Co., 280 N.Y. 50, 55-56, 19 N.E.2d 676 (1939)