SUPREME COURT OF VIRGINIA

MCR Federal, LLC v. JB&A, Inc., 294 Va. 446

806 S.E.2d 867 (2017) · No. Record No. 161799 · Decided December 14, 2017

SUMMARY

The Supreme Court of Virginia considered whether a buyer's false certification that contractual representations remained true at closing supported both breach-of-contract and actual or constructive fraud claims. The Court held that the alleged duty arose solely from the parties' contract, so the fraud claims were improper and the related attorney-fee award was reversed. The Court upheld the finding that the breach caused damages and that the damages were proven with reasonable certainty.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Chief Justice Donald W. Lemons; Justice William C. Mims; Justice Bernard G. Goodwin; Justice Stephen R. McCullough; Justice Teresa M. Chafin; Justice D. Arthur Kelsey; Justice Thomas P. Mann
JURISDICTION	Virginia
DECIDED	December 14, 2017
DOCKET	Record No. 161799
DISPOSITION	other
PROCEDURAL POSTURE	MCR Federal appealed after a bench trial in which the Circuit Court of Fairfax County entered judgment for JB&A on breach of contract and constructive fraud, awarding compensatory damages, attorney's fees, and prejudgment interest.
STANDARD OF REVIEW	Following a bench trial, the evidence and reasonable inferences are viewed in the light most favorable to the prevailing party; the judgment is reviewed for clear error and will not be set aside unless plainly wrong or unsupported by evidence. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Virginia
PARTIES	MCR Federal, LLC v. JB&A, Inc.

TOPICS

breach of contract | fraud | damages | government contracts | commercial litigation

PRACTICE AREAS

contracts | torts | remedies | commercial litigation | government contracts

QUESTIONS PRESENTED

1. Whether JB&A could maintain actual or constructive fraud claims based on MCR Federal's allegedly false contractual representation and bring-down certificate.
2. Whether sufficient evidence established that MCR Federal's breach caused JB&A damages.
3. Whether the purchase price allocation provided a sufficiently certain measure of damages.
4. Whether attorney's fees could be awarded as equitable relief on the constructive-fraud claim.
5. Whether JB&A was required to elect between remedies for breach of contract and fraud.

HOLDINGS

1. JB&A could not maintain actual or constructive fraud claims because the duty allegedly breached arose solely from the Asset Purchase Agreement and the bring-down certificate, not from an independent common-law or statutory duty.
2. Sufficient evidence supported the circuit court's finding that MCR Federal's breach caused JB&A substantial damages.
3. The purchase price allocation was a reliable and sufficiently certain measure of JB&A's value at closing, and the $11,995,002 compensatory-damages award was supported by the evidence.
4. The attorney's-fee award was erroneous because JB&A could not maintain the constructive-fraud claim on which the award was based.
5. The court did not decide whether JB&A was required to elect between remedies because the fraud claim was improper; it reversed the attorney's-fee award on that basis.

KEY QUOTATIONS

> *"Losses suffered as a result of the breach of a duty assumed only by agreement, rather than a duty imposed by law, remain the sole province of the law of contracts."* (9)

> *"The fact that delivery of the bring down certificate was a condition precedent to closing, rather than a contractual duty, "does not take the fraud outside of the contractual relationship.""* (12)

> *"The representation and warranty breached in this case existed solely because of the contractual relationship between the parties."* (13)

> *"Accordingly, there is no merit in MCR Federal's arguments that JB&A failed to prove that MCR Federal's breach caused damages."* (15)

FACTUAL BACKGROUND

JB&A sold its government-contracting business to MCR Federal under an Asset Purchase Agreement requiring MCR Federal to certify at closing that its representations and warranties remained true. One representation concerned pending or threatened government investigations that could cause a material adverse effect. Before closing, the Air Force had requested affidavits concerning MCR's receipt and internal distribution of a competitor's bid, but MCR did not disclose the request in its bring-down certificate. The Air Force later suspended MCR from government contracting, causing financial harm to JB&A and preventing it from meeting earn-out targets.

PROCEDURAL HISTORY

JB&A sued MCR Federal and three executives for breach of contractual representations and warranties and for actual and constructive fraud arising from a bring-down certificate delivered at the closing of an asset purchase. The circuit court permitted amendment to plead fraud in the inducement and, after a 21-day bench trial, found MCR Federal liable for breach of contract and constructive fraud. It awarded $11,995,002 in compensatory damages, $1,894,484 in attorney's fees, and $3,684,890 in prejudgment interest. The Supreme Court of Virginia affirmed the compensatory damages and prejudgment interest, reversed the attorney's-fee award, and entered final judgment.

DISPOSITION

other

CASES CITED

- Government Emps. Ins. Co. v. United Servs. Auto. Ass'n, 281 Va. 647, 708 S.E.2d 877 (2011)
- Filak v. George, 267 Va. 612, 594 S.E.2d 610 (2004)
- Richmond Metro. Auth. v. McDevitt Street Bovis, Inc., 256 Va. 553, 507 S.E.2d 344 (1998)
- Dunn Constr. Co. v. Cloney, 278 Va. 260, 682 S.E.2d 943 (2009)
- Foreign Mission Bd. v. Wade, 242 Va. 234, 409 S.E.2d 144 (1991)
- Ware v. Scott, 220 Va. 317, 257 S.E.2d 855 (1979)
- Prospect Dev. Co. v. Bershader, 258 Va. 75, 515 S.E.2d 291 (1999)
- Shepherd v. Davis, 265 Va. 1088, 574 S.E.2d 514 (2003)
- Condominium Servs. v. First Owners' Ass'n of Forty Six Hundred Condo., Inc., 281 Va. 561, 709 S.E.2d 163 (2011)
- E.I. DuPont de Nemours & Co. v. Universal Moulded Prods. Corp., 191 Va. 525, 62 S.E.2d 233 (1950)
- Sanitary Grocery Co. v. Wright, 158 Va. 312, 163 S.E. 86 (1932)
- American Silicon Techs. v. United States, 334 F.3d 1033 (Fed. Cir. 2003)
- United States v. Simon, 425 F.2d 796 (2d Cir. 1970)