SUPREME COURT OF SOUTH DAKOTA

American Family Mutual Insurance Co. v. Auto-Owners Insurance Co.

757 N.W.2d 584 (S.D. 2008) · No. No. 24723 · Decided November 5, 2008

SUMMARY

The South Dakota Supreme Court held that a landlord's insurer's subrogation rights against a negligent tenant must be determined under a case-by-case approach based on contract principles, rather than the categorical Sutton rule treating tenants as implied co-insureds. Because the lease required the tenants to maintain liability insurance and made them responsible for damage caused by their negligence, the court concluded that subrogation was reasonably contemplated. The court reversed and remanded the circuit court's summary judgment for the defendants.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	O'Brien, Circuit Judge; Gilbertson, Chief Justice; Meierhenry, Justice; Miller, Retired Justice; Wilbur, Circuit Judge
JURISDICTION	South Dakota
DECIDED	November 5, 2008
DOCKET	No. 24723
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	American Family appealed from summary judgment entered for Auto-Owners and the tenant defendants in a declaratory judgment action concerning an insurer's subrogation rights.
STANDARD OF REVIEW	Questions of law and contract interpretation are reviewed de novo. When material facts are undisputed, review is limited to whether the circuit court correctly applied the law.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential.
PARTIES	American Family Mutual Insurance Company v. Auto-Owners Insurance Company, Sandra Pike, Christopher Pike, Ashley Deiss

TOPICS

subrogation · insurance coverage · landlord tenant · contract interpretation · declaratory judgment

PRACTICE AREAS

insurance law · subrogation · landlord-tenant law · contract law · declaratory judgment

QUESTIONS PRESENTED

1. Whether a tenant is an implied co-insured under a landlord's insurance policy, barring the landlord's insurer from pursuing subrogation absent an express lease provision to the contrary.
2. Whether, under the lease construed as a whole, the tenants could reasonably be held liable to the landlord's insurer for negligently caused fire damage.
3. Whether summary judgment for Auto-Owners and the tenants was proper.

HOLDINGS

1. South Dakota rejects the categorical Sutton rule and adopts a case-by-case approach under which subrogation in the landlord-tenant context is determined by applying ordinary contract principles to the lease as a whole and by considering the equitable purposes of subrogation.
2. The lease reasonably contemplated that the tenants could be held liable for damage caused by their negligence, including fire damage, and therefore did not preclude subrogation.
3. Summary judgment for Auto-Owners and the tenants was improper because the circuit court applied the rejected Sutton rule and incorrectly interpreted the lease.

KEY QUOTATIONS

> *“This Court finds and concludes that the case-by-case approach is the best approach to employ in the landlord-tenant context because it applies basic contract principles.”* (757 N.W.2d at 593)

> *“Rather, we adopt the case-by-case approach as a better reasoned rule that recognizes the intent of the parties under contract law and the equitable underpinning of subrogation.”* (757 N.W.2d at 594)

> *“Considering the equitable underpinnings of subrogation, those whose actions result in loss should be held responsible for the damage they caused.”* (757 N.W.2d at 595)

FACTUAL BACKGROUND

Donald Babinski owned a rental duplex insured under an American Family business owners' policy that granted American Family subrogation rights for amounts paid under the policy. The tenants' lease required them to pay for damage caused by their negligence and to maintain liability and personal-property insurance, but did not expressly address fire damage or reserve a subrogation right for the landlord's insurer. The tenants purchased a homeowners' policy from Auto-Owners, and an accidental fire caused by tenant Ashley Deiss resulted in American Family paying $96,959.42 for damage to the duplex.

PROCEDURAL HISTORY

American Family paid $96,959.42 for fire damage to an insured rental duplex and filed a declaratory judgment action seeking subrogation against the tenants' insurer. The parties stipulated to the material facts and filed cross-motions for summary judgment. The circuit court granted summary judgment to Auto-Owners and the tenants, adopting the Sutton rule and alternatively finding that the lease did not contemplate tenant liability for the loss. The South Dakota Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment granting summary judgment to Auto-Owners and the tenants was reversed and the matter was remanded for further proceedings consistent with the court's adoption of the case-by-case approach.

CASES CITED

- Johns v. Black Hills Power, Inc., 2006 SD 85, 722 N.W.2d 554
- Daktronics Inc. v. LBW Technology Co., 2007 SD 80, 737 N.W.2d 413
- A-G-E Corp. v. State, 2006 SD 66, 719 N.W.2d 780
- Met Life Auto and Home Insurance Co. v. Lester, 2006 SD 62, 719 N.W.2d 385
- Sutton v. Jondahl, 532 P.2d 478 (Okla. Civ. App. 1975)
- Rausch v. Allstate Insurance Co., 882 A.2d 801 (Md. 2005)
- New Hampshire Insurance Co. v. Ballard Wade, Inc., 404 P.2d 674 (Utah 1965)
- DiLullo v. Joseph, 792 A.2d 819 (Conn. 2002)
- United Fire & Casualty Co. v. Bruggeman, 505 N.W.2d 87 (Minn. Ct. App. 1993)
- New Hampshire Insurance Group v. Labombard, 399 N.W.2d 527 (Mich. Ct. App. 1986)
- Cambridge Mutual Fire Insurance Co. v. Crete, 846 A.2d 521 (N.H. 2004)
- Page v. Scott, 567 S.W.2d 101 (Ark. 1978)
- Neubauer v. Hostetter, 485 N.W.2d 87 (Iowa 1992)
- 56 Associates v. Frieband, 89 F. Supp. 2d 189 (D.R.I. 2000)
- Tri-Par Investments, L.L.C. v. Sousa, 680 N.W.2d 190 (Neb. 2004)
- Union Mutual Fire Insurance Co. v. Joerg, 824 A.2d 586 (Vt. 2003)
- Koch v. Spann, 92 P.3d 146 (Or. Ct. App. 2004)
- General Mills v. Goldman, 184 F.2d 359 (8th Cir. 1950)