

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

N.E. at West Palm Beach, Inc. v. Horowitz

471 So. 2d 570 (Fla. 3d DCA 1985) · No. No. 84-1793 · Decided June 4, 1985

SUMMARY

The Florida Third District Court of Appeal held that a complaint adequately stated causes of action for breach of a sublease agreement and breach of fiduciary duty. The court reversed dismissal because, on a motion to dismiss, the court must consider only the four corners of the complaint and may not resolve affirmative defenses or evidentiary issues.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Nesbitt; Daniel S. Pearson; Ferguson
JURISDICTION	Florida
DECIDED	June 4, 1985
DOCKET	No. 84-1793
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff, an occupier of business premises under a sublease, appealed the dismissal of its complaint alleging breach of the sublease agreement and breach of fiduciary duty.
STANDARD OF REVIEW	De novo review of dismissal for failure to state a cause of action, considering only the four corners of the complaint.
PRECEDENTIAL VALUE	Published opinion
PARTIES	N.E. at West Palm Beach, Inc. v. Arthur Horowitz, West Restaurant Corporation, 1444 Restaurant Corporation

TOPICS

- motions to dismiss
- pleadings
- breach of contract
- commercial litigation
- civil procedure

PRACTICE AREAS

- civil procedure
- contracts
- commercial litigation
- real estate

QUESTIONS PRESENTED

1. Whether the complaint stated a cause of action for breach of the sublease agreement.
2. Whether the complaint stated a cause of action for breach of fiduciary duty.
3. Whether the trial court could consider affirmative defenses or the anticipated sufficiency of the plaintiff's evidence on a motion to dismiss.

HOLDINGS

1. The complaint stated a cause of action in count I for breach of the sublease agreement and therefore should not have been dismissed.
2. The complaint stated a cause of action in count II for breach of fiduciary duty and therefore should not have been dismissed.
3. A court deciding a motion to dismiss must determine whether the complaint alleges a good cause of action by looking strictly to the four corners of the complaint; it may not consider affirmative defenses or the sufficiency of evidence the plaintiff is likely to produce.

KEY QUOTATIONS

“The purpose of a motion to dismiss is to ascertain whether a plaintiff has alleged a good cause of action and the court must confine itself strictly to the four corners of the complaint.” (471 So. 2d at 571)

“It is inappropriate to consider defendants' affirmative defenses, or the sufficiency of the evidence which the plaintiff is likely to produce.” (471 So. 2d at 571)

FACTUAL BACKGROUND

The plaintiff occupied business premises under a sublease and alleged that the defendant-sublessor, with whom it had a fiduciary relationship, assigned the major lease under a provision allowing the assignee to terminate the sublease. The plaintiff alleged that the assignee terminated the sublease and forced it to move to less desirable space under a new sublease without the compensation allegedly required by the original sublease. The plaintiff also alleged that the sublessor breached a fiduciary duty by failing to disclose the assignment and its terms, information that would have affected negotiations concerning the new sublease.

PROCEDURAL HISTORY

The trial court dismissed the complaint. The Third District Court of Appeal reversed and remanded, holding on clarification that both counts stated causes of action. Rehearing was denied on July 10, 1985.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The dismissal is reversed and the case is remanded for further proceedings on counts I and II.

CASES CITED

- Parkway General Hospital, Inc. v. Allstate Insurance Co., 393 So. 2d 1171 (Fla. 3d DCA 1981)
- Nottage v. American Express Co., 452 So. 2d 1066 (Fla. 3d DCA 1984)

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