SUPREME COURT OF OKLAHOMA

First National Bank in Durant v. Honey Creek Entertainment Corp.

54 P.3d 100 (Okla. 2002) · No. No. 93,078 · Decided February 12, 2002

SUMMARY

The Supreme Court of Oklahoma held that evidence of alleged fraudulent inducement by a bank officer was admissible despite the parol evidence rule and supported the jury's verdict for the guarantor and surety. The court further held that the bank owed no legally cognizable duty to the guarantor to preserve the value of the borrower's assets, so the negligence counterclaim failed as a matter of law. The judgment was affirmed in part, reversed in part, and remanded with instructions.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Boudreau, Justice; Hargrave, C.J.; Lavender, J.; Opala, J.; Kauger, J.; Summers, J.; Winchester, J.; Watt, V.C.J.; Hodges, J.
JURISDICTION	Oklahoma
DECIDED	February 12, 2002
DOCKET	No. 93,078
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Bank appealed from a jury judgment denying its claims against Clancy and Acme and awarding Clancy damages on her negligence counterclaim. The Court of Civil Appeals reversed, and the Oklahoma Supreme Court granted certiorari.
STANDARD OF REVIEW	A motion for judgment notwithstanding the verdict is reviewed under the same standard as a directed-verdict motion. The court considers as true all evidence favorable to the nonmoving party and all reasonable inferences therefrom, disregards conflicting evidence favorable to the moving party, and may grant JNOV only when there is an entire absence of proof on a material issue.
PRECEDENTIAL VALUE	published, precedential Oklahoma Supreme Court opinion
PARTIES	First National Bank in Durant v. Lena Clancy, Acme Finance Company

TOPICS

fraudulent inducement | parol evidence rule | negligence | duty of care | commercial litigation

PRACTICE AREAS

Contracts | Torts | Evidence | Commercial litigation

QUESTIONS PRESENTED

1. Whether the Bank was entitled to judgment as a matter of law on Clancy and Acme's fraudulent-inducement defense because the alleged oral representations were inadmissible under the parol evidence rule.
2. Whether Clancy's negligence counterclaim failed as a matter of law because the Bank owed her no legally cognizable duty to preserve the value of Honey Creek's assets.

HOLDINGS

1. The parol evidence rule did not bar evidence of Dufur's alleged fraudulent representations concerning the Bank's intended enforcement of the guaranty and surety agreements. The alleged statements were misrepresentations of fact concerning the Bank's intent, not inadmissible misrepresentations of law, and the evidence supported submission of the fraudulent-inducement defense to the jury.
2. Clancy's negligence counterclaim failed as a matter of law because she did not establish that the Bank owed her a legally cognizable duty to preserve the value of Honey Creek's assets. The trial court therefore erred by denying the Bank's JNOV motion on that counterclaim.

KEY QUOTATIONS

> *"The purpose and effect of the evidence introduced in the case at bar is not to contradict or vary the terms of the written contract, but to show that the plaintiff was imposed upon, and the fraud was practiced in obtaining his signature thereto."* (104)

> *"Fraud vitiates everything it touches, and a contract obtained thereby is voidable."* (104)

> *"Because Clancy did not establish that the Bank owed her a duty to preserve the value of Honey Creek's assets, Clancy's negligence counterclaim against the Bank failed as a matter of law under the evidence presented."* (106)

FACTUAL BACKGROUND

The Bank loaned Honey Creek $2.25 million to purchase Arbuckle Wilderness Park, requiring Honey Creek's assets, the owners' stock, personal guaranties, and Acme's mortgages on approximately 3,000 acres of ranch land as security. Clancy alleged that the Bank's president and CEO, Alan Dufur, repeatedly assured her that she would be liable for no more than one-third of the debt and that Acme's mortgages would not be enforced until Honey Creek's assets had been sold and the proceeds applied to the debt. Honey Creek defaulted, and Clancy and Acme defended against the Bank's claims on fraudulent-inducement grounds. Clancy also claimed that the Bank negligently failed to prevent the diminution in value of Honey Creek's assets.

PROCEDURAL HISTORY

After Honey Creek defaulted on a $2.25 million loan, the Bank sued Honey Creek, Clancy, and Acme for the debt, guaranty, and foreclosure-related relief. Honey Creek filed for bankruptcy protection, while the claims against Clancy and Acme proceeded to a jury trial. The jury found fraudulent inducement as to Clancy and Acme's guaranty and surety agreements and awarded Clancy negligence damages; the trial court entered judgment on the verdict and denied the Bank's JNOV motion. The Court of Civil Appeals reversed, after which both sides sought certiorari.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must enter judgment consistent with the opinion: for Clancy and Acme on the jury verdict in their favor on the Bank's breach-of-contract claims, and against Clancy on her negligence counterclaim. The opinion of the Court of Civil Appeals was vacated, and the trial court's judgment was affirmed in part and reversed in part.

CASES CITED

- Franklin v. Toal, 2000 OK 79, 19 P.3d 834, 837
- Mid-America Corp. v. Miller, 1962 OK 123, 372 P.2d 14, 18
- Bonner v. Oklahoma Rock Corp., 1993 OK 131, 863 P.2d 1176, 1180
- Ollie v. Rainbolt, 1983 OK 79, 669 P.2d 275, 279
- American Perforating Co. v. Oklahoma State Bank, 1970 OK 4, 463 P.2d 958, 963
- Maney v. Cherry, 1935 OK 115, 41 P.2d 82, 84
- Nesbitt v. Home Federal Savings & Loan Assoc., 1968 OK 31, 440 P.2d 738, 743
- First National Bank v. Muskogee Discount House, 1963 OK 130, 382 P.2d 137, 139
- Bredouw v. Jones, 1966 OK 93, 431 P.2d 413, 419
- A.A. Murphy Inc. v. Banfield, 1961 OK 197, 363 P.2d 942
- Miller v. Troy Laundry Machinery Co., Inc., 1936 OK 513, 62 P.2d 975, 977
- American Asbestos Products Co. v. Smith Bros., 1937 OK 604, 73 P.2d 839, 841
- Wofford v. Eastern State Hosp., 1990 OK 77, 795 P.2d 516, 518
- Delbrel v. Doenges Bros. Ford, Inc., 1996 OK 36, 913 P.2d 1318, 1320
- Beshara v. Southern Nat. Bank, 1996 OK 90, 928 P.2d 280, 288
- Commonwealth Cotton Oil Co. v. Lester, 1932 OK 2, 9 P.2d 738, 745
