

SUPERIOR COURT OF PENNSYLVANIA

Dawejko v. Jorgensen Steel Co., 290 Pa. Super. 15

434 A.2d 106 (Pa. Super. Ct. 1981) · Decided August 14, 1981

SUMMARY

The Pennsylvania Superior Court held that a successor corporation may be strictly liable for injuries caused by a defective product manufactured by its predecessor under the product-line exception to successor liability. The court adopted the formulation from *Ramirez v. Amsted Industries, Inc.*, and affirmed the denial of judgment notwithstanding the verdict against American Chain and Cable Company and its Mansaver division.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Spaeth; Brosky; Hoffman
JURISDICTION	Pennsylvania
DECIDED	August 14, 1981
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of the appellant successor corporation's motion for judgment notwithstanding the verdict in a strict-products-liability action.
STANDARD OF REVIEW	On a motion for judgment notwithstanding the verdict, the evidence and all reasonable inferences must be viewed in the light most favorable to the verdict winner.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	American Chain and Cable Company, Inc., a/k/a ACCO, Mansaver Industries, Inc., a Division of ACCO v. Edmund Dawejko, Roseann Dawejko

TOPICS

- products liability
- strict liability
- torts
- corporate law
- remedies

PRACTICE AREAS

- products liability
- corporate law
- torts
- remedies

QUESTIONS PRESENTED

1. Whether Pennsylvania should adopt a product-line exception to the general rule that a corporation acquiring another corporation's assets does not assume the predecessor's liabilities.
2. Whether the evidence, viewed under the judgment-n.o.v. standard, supported imposing strict products liability on ACCO as Mansaver's successor.
3. Whether the lower court's erroneous treatment of the judgment-n.o.v. motion as analogous to a summary-judgment motion required reversal.
4. Whether failure to transcribe the trial notes required dismissal of the judgment-n.o.v. motion.

HOLDINGS

1. Pennsylvania adopts the product-line exception: when one corporation acquires all or substantially all of another corporation's manufacturing assets and undertakes essentially the same manufacturing operation, the purchasing corporation may be strictly liable for injuries caused by defects in products from the same product line, including products manufactured and distributed by the predecessor.
2. The evidence was sufficient for the jury to find ACCO liable under the product-line exception because ACCO acquired Mansaver's trademark and goodwill, Mansaver ceased operations, and the evidence supported a finding that ACCO continued the same business and manufactured and sold the same machine under the same name.
3. The lower court applied an erroneous standard by treating the judgment-n.o.v. motion as though it were a summary-judgment motion, but the error was harmless because the judgment-n.o.v. motion was correctly denied on the merits. The lower court also should not have dismissed the motion solely because the trial notes had not been transcribed, but that error was likewise harmless.

KEY QUOTATIONS

"The formulation of the court in Ramirez v. Amsted Industries, Inc., supra, is well-put, and we adopt it." (290 Pa. Super. at 26)

"In deciding whether judgment n.o.v. should be entered, we must view all of the evidence, together with all reasonable inferences therefrom, in the light most favorable to the verdict winner." (290 Pa. Super. at 27)

"where one corporation acquires all or substantially all the manufacturing assets of another corporation, even if exclusively for cash, and undertakes essentially the same manufacturing operation as the selling corporation, the purchasing corporation is strictly liable for injuries caused by defects in units of the same product line, even if previously manufactured and distributed by the selling corporation or its predecessor." (290 Pa. Super. at 23)

FACTUAL BACKGROUND

Edmund Dawejko was injured on August 2, 1972, when sheets of steel accidentally fell from a Mansaver lifting machine. Mansaver Industries manufactured the machine in 1957 and sold it through a broker to Dawejko's employer. In 1964, ACCO acquired Mansaver's assets, including its trademark and goodwill, after which

Mansaver ceased operations; the record supported an inference that ACCO continued manufacturing and selling the same machine under the Mansaver name.

PROCEDURAL HISTORY

Edmund Dawejko was injured when steel sheets were dropped from a Mansaver lifting machine manufactured by Mansaver Industries before its assets were acquired by ACCO. The jury found for the appellees, and the lower court denied ACCO's motion for judgment notwithstanding the verdict. The Superior Court affirmed, holding that Pennsylvania recognizes a product-line exception to successor-corporation immunity and that the evidence, viewed in the light most favorable to the verdict winner, supported liability.

DISPOSITION

affirmed

CASES CITED

- Husak v. Berkel Incorporated, 234 Pa. Super. 452, 341 A.2d 174 (1975)
- Knapp v. North American Rockwell Corp., 506 F.2d 361 (3d Cir. 1974)
- Granthum v. Textile Machine Works, 230 Pa. Super. 199, 326 A.2d 449 (1974)
- Cyr v. B. Offen & Co., Inc., 501 F.2d 1145 (1st Cir. 1974)
- Turner v. Bituminous Casualty Co., 397 Mich. 406, 244 N.W.2d 873 (1976)
- Andrews v. John E. Smith's Sons Co., 369 So. 2d 781 (Ala. 1979)
- Ray v. Alad Corporation, 19 Cal. 3d 22, 136 Cal. Rptr. 574, 560 P.2d 3 (1977)
- Ramirez v. Amsted Industries, Inc., 86 N.J. 332, 431 A.2d 811 (1981)
- Ayala v. Philadelphia Board of Education, 453 Pa. 584, 305 A.2d 877 (1973)
- Handfinger v. Philadelphia Gas Works, 439 Pa. 130, 266 A.2d 769 (1970)
- Visscher v. O'Brien, 274 Pa. Super. 375, 418 A.2d 454 (1980)
- Greenman v. Yuba Power Products, Inc., 59 Cal. 2d 57, 377 P.2d 897 (1963)
- Escola v. Coca Cola Bottling Co., 24 Cal. 2d 453, 150 P.2d 436 (1944)
- Seeley v. White Motor Co., 63 Cal. 2d 9, 403 P.2d 145 (1965)
- Price v. Shell Oil Co., 2 Cal. 3d 245, 466 P.2d 722 (1970)
- Lopata v. Bemis Co., Inc., 383 F. Supp. 342 (E.D. Pa. 1974)
- McKee v. Harris-Seybold Co., Division of Harris-Intertype Corp., 109 N.J. Super. 555, 264 A.2d 98 (1970)
- Kloberdanz v. Joy Manufacturing Co., 288 F. Supp. 817 (D. Colo. 1968)
- Wilson v. Fare Well Corp., 140 N.J. Super. 476, 356 A.2d 458 (L. Div. 1976)

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