SUPREME COURT OF THE STATE OF DELAWARE

Oxbow Carbon & Minerals Holdings, Inc. v. Crestview-Oxbow Acquisition, LLC

202 A.3d 482 (Del. 2019) · No. No. 536, 2018 · Decided January 17, 2019

SUMMARY

The Delaware Supreme Court reviewed a dispute concerning the interpretation of an LLC agreement, including minority members' put and exit-sale rights, the effect of a 1.5x return condition, and the admission and rights of additional members. The court held that the Court of Chancery correctly interpreted the agreement's plain language but erred in finding a contractual gap concerning the admission of certain minority holders. It affirmed in part, reversed in part, and vacated the Court of Chancery's remedies decision.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Valihura, Justice; Strine, Chief Justice; Vaughn, Justice; Seitz, Justice; Traynor, Justice
JURISDICTION	Delaware
DECIDED	January 17, 2019
DOCKET	No. 536, 2018
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Delaware Court of Chancery's February 12, 2018 post-trial decision and August 1, 2018 remedies decision in consolidated LLC-unitholder litigation.
STANDARD OF REVIEW	Questions of law and contractual interpretation are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Oxbow Carbon & Minerals Holdings, Inc., Ingraham Investments LLC, Oxbow Carbon Investment Company LLC, William I. Koch, Oxbow Carbon LLC v. Crestview-Oxbow Acquisition, LLC, Crestview-Oxbow (ERISA) Acquisition, LLC, Crestview Partners, L.P., Crestview Partners GP, L.P., Crestview Advisors, L.L.C., Load Line Capital LLC

TOPICS

limited liability companies · contract interpretation · implied covenant of good faith · appellate procedure · remedies

PRACTICE AREAS

contract law · limited liability companies · commercial litigation · appellate procedure · equitable remedies

QUESTIONS PRESENTED

1. Whether the LLC Agreement's plain language requires the Highest Amount Interpretation, under which an Exit Sale cannot proceed unless every Member receives at least 1.5 times its capital contribution and all Members receive equal consideration.
2. Whether the LLC Agreement contains a contractual gap concerning the rights of the Small Holders when they were admitted as Members.
3. Whether the implied covenant of good faith and fair dealing permits implying a Seller Top-Off right for the Minority Members.
4. Whether Oxbow breached the LLC Agreement's Reasonable Efforts Provision.
5. Whether the Court of Chancery's remedies decision should stand.

HOLDINGS

1. The LLC Agreement's plain language requires the Highest Amount Interpretation: an Exit Sale cannot proceed unless every Member receives at least 1.5 times its aggregate capital contributions, and all Members receive the same consideration.
2. The LLC Agreement does not contain a contractual gap concerning the admission terms or rights of the Small Holders.
3. The implied covenant of good faith and fair dealing does not authorize a Seller Top-Off because the contract addresses the relevant conduct and the admission of new Members and their effect on the Exit Sale could have been anticipated and expressly negotiated.
4. Because no Exit Sale was available that could satisfy the LLC Agreement's express requirements under prevailing market conditions, the Court of Chancery's remedies decision must be vacated.

KEY QUOTATIONS

> *"Delaware's implied duty of good faith and fair dealing is not an equitable remedy for rebalancing economic interests after events that could have been anticipated, but were not, that later adversely affected one party to a contract."* (at 42)

> *"We decline to apply the implied covenant here because no gap exists concerning the admission of the Small Holders, and because the admission of new Members and their impact on the Exit Sale process could have been anticipated."* (at 43)

FACTUAL BACKGROUND

Oxbow Carbon LLC was controlled by William I. Koch and governed by a Third Amended and Restated LLC Agreement granting minority investors Crestview and Load Line put and Exit Sale rights. In 2011 and 2012, Oxbow issued additional units to Koch-affiliated entities Ingraham Investments LLC and Oxbow Carbon Investment Company LLC, but the Board did not fully comply with the LLC Agreement's preemptive-rights, related-party-approval, and admission formalities. The Small Holders were nevertheless treated by all relevant parties as Members and received distributions. After Crestview exercised its Put Right and Oxbow rejected it, the parties disputed whether the Small Holders could block an Exit Sale because they had not received distributions equal to 1.5 times their capital contributions.

PROCEDURAL HISTORY

The parties cross-moved for summary judgment in the Court of Chancery, which held that the LLC Agreement's plain language adopted the Highest Amount Interpretation but later found a contractual gap concerning the admission terms of the Small Holders. The Court of Chancery used the implied covenant of good faith and fair dealing to imply a Seller Top-Off right, found a breach of the Reasonable Efforts Provision, and issued a subsequent remedies decision. The Delaware Supreme Court affirmed the contractual interpretation, reversed the finding of a contractual gap and the implied Seller Top-Off, and vacated the remedies decision.

DISPOSITION

other

REMAND INSTRUCTIONS

None stated. The Court affirmed in part and reversed in part the February 12, 2018 Court of Chancery decision and vacated the August 1, 2018 remedies decision.

CASES CITED

- In re Oxbow Carbon LLC Unitholder Litig., 2018 WL 818760 (Del. Ch. Feb. 12, 2018)
- Gerber v. Enterprise Products Holdings, LLC, 67 A.3d 400 (Del. 2013)
- Allen v. El Paso Pipeline GP Co., 113 A.3d 167 (Del. Ch. 2014), aff'd, 2015 WL 803053 (Del. Feb. 26, 2015)
- SinoMab Bioscience Ltd. v. Immunomedics, Inc., 2009 WL 1707891 (Del. Ch. June 16, 2009)
- In re IBP, Inc. S'holders Litig., 789 A.2d 14 (Del. Ch. 2001)
- Blaustein v. Lord Baltimore Capital Corp., 84 A.3d 954 (Del. 2014)
- Miller v. HCP Trumpet Investments, LLC, 2018 WL 4600818 (Del. Sept. 20, 2018)
- Amirsaleh v. Bd. of Trade of N.Y.C., Inc., 2008 WL 4182998 (Del. Ch. Sept. 11, 2008)
- Cincinnati SMA Ltd. P'ship v. Cincinnati Bell Cellular Sys. Co., 708 A.2d 989 (Del. 1998)
- Dieckman v. Regency GP LP, 155 A.3d 358 (Del. 2017)
- Nemec v. Shrader, 991 A.2d 1120 (Del. 2010)
- Airborne Health, Inc. v. Squid Soap, LP, 984 A.2d 126 (Del. Ch. 2009)

- Corporate Prop. Assocs. 14 Inc. v. CHR Holding Corp., 2008 WL 963048 (Del. Ch. Apr. 10, 2008)
- West Willow-Bay Court, LLC v. Robino-Bay Court Plaza, LLC, 2007 WL 3317551 (Del. Ch. Nov. 2, 2007), aff'd, 985 A.2d 391 (Del. 2009)
- Eagle Force Holdings, LLC v. Campbell, 187 A.3d 1209 (Del. 2018)
- Dunlap v. State Farm Fire and Casualty Co., 878 A.2d 434 (Del. 2005)
- E.I. DuPont de Nemours & Co. v. Pressman, 679 A.2d 436 (Del. 1996)
- Nationwide Emerging Managers, LLC v. Northpointe Holdings, LLC, 112 A.3d 878 (Del. 2015)
- Allied Capital Corp. v. GC-Sun Holdings, L.P., 910 A.2d 1020 (Del. Ch. 2006)
- Blish v. Thompson Automatic Arms Corp., 64 A.2d 581 (Del. 1948)
- Wood v. Lucy, Lady Duff-Gordon, 118 N.E. 214 (N.Y. 1917)
