

FLORIDA FIFTH DISTRICT COURT OF APPEAL

AP Atlantic, Inc. v. Silver Creek St. Augustine, LLLP

266 So. 3d 865 (Fla. 5th DCA 2019) · Decided March 15, 2019

SUMMARY

The Florida Fifth District Court of Appeal held that a non-signatory to a construction contract may enforce the contract's arbitration provision when a signatory asserts claims against the non-signatory that arise directly from the contract. The court reversed the denial of the motion to compel arbitration and remanded with directions to grant the motion.

CASE DETAILS

COURT	Florida Fifth District Court of Appeal
WRITING FOR THE COURT	Evander, C.J.; Eisnaugle, J.; Harris, J.
JURISDICTION	Florida
DECIDED	March 15, 2019
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	AP Atlantic, Inc., a nonsignatory to a construction contract, appealed the denial of its motion to compel arbitration.
PRECEDENTIAL VALUE	precedential
PARTIES	AP Atlantic, Inc. v. Silver Creek St. Augustine, LLLP

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a nonsignatory to a construction contract may enforce the contract's arbitration provision when a signatory asserts claims against the nonsignatory that arise directly from the contract.

HOLDINGS

1. A nonsignatory to a contract may enforce the contract's arbitration provision against a signatory when the signatory's claims against the nonsignatory relate directly to the contract and rely on the contract.

KEY QUOTATIONS

“We reverse because a non-signatory may enforce an arbitration provision when a signatory makes a claim against the non-signatory that arises out of the contract.” (865-66)

“However, an exception to this rule is “when the claims relate directly to the contract and the signatory is relying on the contract to assert its claims against the non-signatory.”” (865)

FACTUAL BACKGROUND

Silver Creek St. Augustine, LLLP, and AP Gulf States, Inc., an affiliate of AP Atlantic, Inc., signed a construction contract containing an arbitration provision. AP Atlantic was not a signatory to the contract. Silver Creek asserted claims against AP Atlantic that directly concerned performance and payment under the contract.

PROCEDURAL HISTORY

Silver Creek, a signatory to the construction contract, asserted claims against AP Atlantic relating directly to performance and payment under the contract. The trial court denied AP Atlantic's motion to compel arbitration on the ground that the arbitration provision did not apply to nonsignatories. The Fifth District Court of Appeal reversed and remanded with directions to grant the motion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was directed to grant AP Atlantic's motion to compel arbitration.

CASES CITED

- Koechli v. BIP Int'l, Inc., 870 So. 2d 940 (Fla. 1st DCA 2004)
- Roman v. Atl. Coast Constr. & Dev., Inc., 44 So. 3d 222 (Fla. 4th DCA 2010)
- Cuninghame Hamilton Quiter, P.A. v. B.L. of Miami, Inc., 776 So. 2d 940 (Fla. 3d DCA 2000)

OPINION

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PER CURIAM.

PER CURIAM. Appellant, AP Atlantic, Inc., a non-signatory to a construction contract, appeals the denial of its motion to compel arbitration after the trial court concluded that the contract's arbitration provision did not apply to non-signatories. The construction contract was signed by

Appellee, Silver Creek St. Augustine, LLLP, and Appellant's affiliate, AP Gulf States, Inc. We reverse because a non-signatory may enforce an arbitration provision when a signatory makes a claim against the non-signatory that arises out of the contract. Generally, "a non-signatory to a contract containing an arbitration agreement ... cannot compel a signatory to submit to arbitration." *Koechli v. BIP Int'l, Inc.*, 870 So.2d 940, 943 (Fla. 1st DCA 2004). However, an exception to this rule is "when the claims relate directly to the contract and the signatory is relying on the contract to assert its claims against the non-signatory." *Id.* at 944 (citations omitted). In this case, Appellee is a signatory and has alleged claims below against Appellant directly related to both performance and payment under the contract. In these rare circumstances, Florida courts have determined that a non-signatory to the contract may enforce an arbitration provision against a signatory. See, e.g., *Roman v. Atl. Coast Constr. & Dev., Inc.*, 44 So.3d 222, 224 (Fla. 4th DCA 2010) ; *Koechli*, 870 So.2d at 945 ; *Cunningham Hamilton Quiter, P.A. v. B.L. of Miami, Inc.*, 776 So.2d 940, 943 (Fla. 3d DCA 2000). Accordingly, we reverse the order denying Appellant's motion to compel arbitration and remand with directions that the trial court grant the motion. REVERSED and REMANDED. EVANDER, C.J., EISNAUGLE and HARRIS, JJ., concur.