

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Grynberg v. ENI S.p.A.

503 F. App'x 42 (2d Cir. 2012) · No. 11-3846-cv · Decided November 20, 2012

OPINION

PER CURIAM.

11-3846-cv Grynberg et al. v. ENI S.p.A. UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT SUMMARY ORDER RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER").

A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL. 1 At a stated term of the United States Court of Appeals 2 for the Second Circuit, held at the Daniel Patrick Moynihan 3 United States Courthouse, 500 Pearl Street, in the City of 4 New York, on the 20th day of November, two thousand twelve. 5 6 PRESENT: RICHARD C. WESLEY, 7 DENNY CHIN, 8 Circuit Judges, 9 DAVID G. LARIMER, 10 District Judge.* 11 12 13 14 JACK J. GRYNBERG, GRYNBERG PRODUCTION 15 CORPORATION (TEXAS).

INC., GRYNBERG 16 PRODUCTION CORPORATION (COLORADO), 17 INC., PRICASPIAN DEVELOPMENT 18 CORPORATION (TEXAS)., 19 20 Plaintiffs-Appellants, 21 22 -v.- 11-3846 23 24 ENI S.P.A., FKA AGIP, an Italian 25 Corporation, 26 27 Defendant-Appellee. 28 29 * The Honorable David G. Larimer, of the United States District Court for the Western District of New York, sitting by designation.

1 FOR PLAINTIFFS-APPELLANTS: Daniel L. Abrams, Law Office of 2 Daniel L. Abrams, PLLC, New 3 York, NY. 4 5 FOR DEFENDANT-APPELLEE: Mark A. Robertson, Travis J. 6 Mock, Fulbright & Jaworski 7 L.L.P., New York, NY. 8 9 Appeal from the United States District Court for the 10 Southern District of New York (Daniels, J.). 11 12 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED 13 AND DECREED that the judgment of the United States District 14 Court for the Southern District of New York is AFFIRMED.

15 Plaintiffs-Appellants Jack J. Grynberg (“Grynberg”) and 16 three closely-held companies owned by the Grynberg family 17 appeal from an August 24, 2011 order of the United States 18 District Court for the Southern District of New York 19 (Daniels, J.) granting Defendant-Appellee Eni S.p.A.’s 20 (“Eni”) motion for summary judgment and dismissing 21 Grynberg’s claim for unjust enrichment.

The panel has 22 reviewed the briefs and the record in this appeal and agrees 23 unanimously that oral argument is unnecessary because “the 24 facts and legal arguments [have been] adequately presented 25 in the briefs and record, and the decisional process would 26 not be significantly aided by oral argument.” Fed. R. App. 27 P. 34(a)(2)(C).

We assume the parties’ familiarity with the 28 underlying facts, the procedural history, and the issues 29 presented for review. 2 1 We review de novo a grant of summary judgment by the 2 district court. See, e.g., *S.E.C. v. Obus*, 693 F.3d 276, 3 284 (2d Cir. 2012). “The basic elements of an unjust 4 enrichment claim in New York require proof that (1) 5 defendant was enriched, (2) at plaintiff’s expense, and (3) 6 equity and good conscience militate against permitting 7 defendant to retain what plaintiff is seeking to recover.” 8 *Briarpatch Ltd., L.P. v. Phoenix Pictures, Inc.*, 373 F.3d 9 296, 306 (2d Cir.

2004). The district court determined that 10 Grynberg’s claim failed because he could not show any 11 relationship, or even any communication, between himself and 12 Eni. See *Mandarin Trading Ltd. v. Wildenstein*, 944 N.E.2d 13 1104, 1110-11 (N.Y. 2011) (“Although privity is not required 14 for an unjust enrichment claim, a claim will not be 15 supported if the connection between the parties is too 16 attenuated.” (internal citations omitted)).

17 Grynberg challenges the district court’s ruling on the 18 ground that he alleged an “unjust enrichment claim 19 predicated on a misappropriation of trade secrets,” which 20 need not satisfy the traditional elements of unjust 21 enrichment.

The district court correctly ruled that 22 Grynberg did not make a misappropriation of trade secrets 3 1 claim. The amended complaint identified only one claim for 2 relief and it was entitled “unjust enrichment.” But even 3 had the court considered the merits of Grynberg’s alleged 4 trade secrets claim, summary judgment for Eni would still be 5 appropriate.

Grynberg offered no evidence showing that Eni 6 had notice that information Grynberg claims Eni received 7 through a joint venture was in breach of a confidential 8 relationship. See Restatement of Torts § 757(c) (1939). 9 For the foregoing reasons, the judgment of the district 10 court is hereby AFFIRMED. 11 12 FOR THE COURT: 13 Catherine O’Hagan Wolfe, Clerk 14 15 4