SUPREME COURT OF APPEALS OF WEST VIRGINIA

Patricia Chafin, Administratrix of the Estate of Freda Marie Bradley v. Farmers & Mechanics Mutual Insurance Company of West Virginia

232 W. Va. 245 (2013) · No. No. 12-0769 · Decided November 7, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia reviewed a summary judgment ruling concerning coverage for damage to a kitchen floor under a homeowners insurance policy. The court held that the undefined term "collapse" was ambiguous and should be construed to include substantial impairment of structural integrity, and that whether the damage resulted from hidden decay was a factual issue for the jury. The court reversed and remanded.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	November 7, 2013
DOCKET	No. 12-0769
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The administratrix appealed from an order granting the insurer summary judgment in an action arising from denial of coverage for damage to the decedent's kitchen and bathroom floors.
STANDARD OF REVIEW	De novo review applies to the interpretation of an insurance contract, including whether the policy is ambiguous, and to a lower court's grant of summary judgment.
PRECEDENTIAL VALUE	Published West Virginia Supreme Court of Appeals opinion; precedential.
PARTIES	Patricia Chafin, Administratrix of the Estate of Freda Marie Bradley v. Farmers & Mechanics Mutual Insurance Company of West Virginia

TOPICS

insurance coverage · contract interpretation · summary judgment · standard of review · appellate procedure

PRACTICE AREAS

insurance law · contract law · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether the term "collapse" in the homeowners insurance policy was ambiguous and could encompass substantial impairment of the structural integrity of the kitchen floor rather than only complete falling or destruction.
2. Whether the evidence conclusively established that the kitchen-floor damage was not caused by hidden decay or that the insured knew the decay was causing the floor to sink.
3. Whether the circuit court properly denied the insured's separate claim under the policy's fungi, wet or dry rot, or bacteria coverage provision.

HOLDINGS

1. The undefined term "collapse" was ambiguous because it was reasonably susceptible to more than one meaning. Construed strictly against the insurer and in favor of the insured, it includes something less than the complete falling in of the kitchen floor, including substantial impairment of the floor's structural integrity.
2. Whether Bradley knew that decay was causing her kitchen floor to sink was a genuine issue of material fact for a jury; awareness that the floor was sinking did not necessarily establish knowledge of the cause of the sinking.
3. The circuit court properly rejected the separate Section 12.a claim because Section 12.b required the loss to result from a peril insured against, and collapse was additional coverage rather than a named peril insured against.

KEY QUOTATIONS

> *"In strictly construing the term against the respondent and in favor of the insured, this Court finds that the term "collapse" in the subject insurance policy should be construed to mean something less than the complete falling in of Ms. Bradley's kitchen floor and to include substantial impairment of the structural integrity of the floor."* (at 9-10)

> *"Our review of Mr. Franck's 2005 report indicates that the issue of whether the report should have sufficiently informed Ms. Bradley that decay was causing her kitchen floor to sink is a question of fact for a jury."* (at 13-14)

> *"Therefore, we remand this case for proceedings consistent with this opinion."* (at 14)

FACTUAL BACKGROUND

Freda Marie Bradley held a named-perils homeowners insurance policy issued by Farmers & Mechanics Mutual. After an earlier claim involving alleged blasting damage, she submitted a later claim for damage to her kitchen and bathroom floors. An insurer-retained engineer attributed the kitchen-floor damage to long-term rotting and decay associated with inadequate drainage and lack of a vapor barrier, while attributing the bathroom damage to a leaking toilet drain. The insurer denied coverage, and Bradley alleged that the kitchen floor had substantially sunk and become unsafe, with only the linoleum floor covering holding it up.

PROCEDURAL HISTORY

Freda Marie Bradley sued Farmers & Mechanics Mutual after the insurer denied her claim for damage to her kitchen and bathroom floors. The Circuit Court of Logan County granted the insurer summary judgment, concluding that the kitchen-floor damage did not constitute a policy-defined collapse and, alternatively, was not caused by hidden decay. During the appeal, Bradley died and Patricia Chafin was substituted as administratrix of the estate.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Circuit Court of Logan County for proceedings consistent with the opinion, including resolution by a jury of whether the hidden decay causing the kitchen-floor damage was known to the insured.

CASES CITED

- Riffe v. Home Finders Assocs., Inc., 205 W. Va. 216, 517 S.E.2d 313 (1999)
- Soliva v. Shand, Morahan & Co., Inc., 176 W. Va. 430, 345 S.E.2d 33 (1986)
- National Mutual Insurance Co. v. McMahon & Sons, 177 W. Va. 734, 356 S.E.2d 488 (1987)
- Prete v. Merchant's Property Insurance Co., 159 W. Va. 508, 223 S.E.2d 441 (1976)
- Berkeley County Public Service v. Vitro Corp., 152 W. Va. 252, 162 S.E.2d 189 (1968)
- Murray v. State Farm Fire & Casualty Co., 203 W. Va. 477, 509 S.E.2d 1 (1998)
- West Virginia Fire & Casualty Co. v. Mathews, 209 W. Va. 107, 543 S.E.2d 664 (2000)
- Monroe Guaranty Insurance Co. v. Magwerks Corp., 829 N.E.2d 968 (Ind. 2005)
- Monroe Guaranty Insurance Co. v. Magwerks Corp., 796 N.E.2d 326 (Ind. Ct. App. 2003)
- Dominick v. Statesman Insurance Co., 692 A.2d 188 (Pa. Super. Ct. 1997)
- Ercolani v. Excelsior Insurance Co., 830 F.2d 31 (3d Cir. 1987)
- Island Breakers v. Highlands Underwriters Insurance Co., 665 So. 2d 1084 (Fla. Dist. Ct. App. 1995)
- Nationwide Mutual Fire Insurance Co. v. Tomlin, 181 Ga. App. 413, 352 S.E.2d 612 (1986)
- Government Employees Insurance Co. v. DeJames, 256 Md. 717, 261 A.2d 747 (1970)
- Royal Indemnity Co. v. Grunberg, 155 A.D.2d 187, 553 N.Y.S.2d 527 (1990)
- Thomasson v. Grain Dealers Mutual Insurance Co., 103 N.C. App. 475, 405 S.E.2d 808 (1991)
- Potesta v. U.S. Fidelity & Guaranty Co., 202 W. Va. 308, 504 S.E.2d 135 (1998)

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