

NEW YORK COURT OF APPEALS

Fabrizi v. 1095 Avenue of Americas, L.L.C.

22 N.Y.3d 658 (2014) · Decided February 20, 2014

SUMMARY

The New York Court of Appeals held that defendants were entitled to summary judgment dismissing the plaintiff's Labor Law § 240 (1) claim. The conduit's compression coupling was a component of the conduit assembly, not an enumerated safety device intended to protect workers from falling objects, and the failure to use a set-screw coupling therefore did not establish a § 240 (1) violation. The court reversed the Appellate Division's order as to defendants 1095 Avenue of the Americas and J.T. Magen Construction Company and dismissed the appeal as to Dechert, LLP.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Pigott, J.
JURISDICTION	New York
DECIDED	February 20, 2014
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff sought partial summary judgment on liability under Labor Law § 240 (1), while defendants 1095 Avenue of the Americas, L.L.C. and J.T. Magen Construction Company, Inc. moved for summary judgment dismissing that claim. Supreme Court granted plaintiff's motion and denied defendants' motion. The Appellate Division denied plaintiff's motion but otherwise affirmed and certified a question to the Court of Appeals.
STANDARD OF REVIEW	Summary judgment is appropriate where the movant establishes entitlement to judgment as a matter of law; the court reviewed whether plaintiff established entitlement to partial summary judgment and whether 1095 and Magen established entitlement to dismissal of the Labor Law § 240 (1) claim as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	1095 Avenue of the Americas, L.L.C., J.T. Magen Construction Company, Inc., Dechert, LLP v. Fabrizio

TOPICS

construction law

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether plaintiff established entitlement to summary judgment under Labor Law § 240 (1) by showing that the conduit fell because defendants failed to use an adequate set screw coupling.
2. Whether the compression coupling or a set screw coupling was a safety device of the kind enumerated in Labor Law § 240 (1).
3. Whether defendants 1095 and Magen were entitled to summary judgment dismissing the Labor Law § 240 (1) claim.
4. Whether Dechert's appeal should be dismissed because it was not aggrieved by the Appellate Division order.

HOLDINGS

1. Plaintiff was not entitled to summary judgment because he did not establish as a matter of law that defendants' failure to provide a set screw coupling, or another enumerated safety device, was a proximate cause of the accident.
2. Neither the compression coupling nor the proposed set screw coupling was a safety device within the meaning of Labor Law § 240 (1).
3. 1095 and Magen were entitled to summary judgment dismissing the Labor Law § 240 (1) claims against them.
4. Dechert's appeal was dismissed because Dechert did not move for summary judgment and was not aggrieved by the Appellate Division order.

KEY QUOTATIONS

“Contrary to the dissent’s contention, section 240 (1) does not automatically apply simply because an object fell and injured a worker” (663)

“A plaintiff must show that the object fell . . . because of the absence or inadequacy of a safety device of the kind enumerated in the statute” (663)

“Plaintiff’s argument that the coupling itself is a safety device, albeit an inadequate one, extends the reach of section 240 (1) beyond its intended purpose to any component that may lend support to a structure.” (663-664)

FACTUAL BACKGROUND

Fabrizi, an electrician employed by Forest Electric Corp., was injured when an 8- to 10-foot conduit weighing approximately 60 to 80 pounds fell on his hand. The conduit was connected near the ceiling by a compression coupling and formed part of a conduit and pencil-box assembly. After cutting the conduit and removing the pencil box so that it could be relocated, Fabrizio left the upper conduit dangling from the compression coupling; approximately 15 minutes later, it fell while he was drilling into the floor.

PROCEDURAL HISTORY

After discovery, Supreme Court granted plaintiff partial summary judgment on liability and denied the motions of 1095 and Magen to dismiss the Labor Law § 240 (1) claim. The Appellate Division modified by denying plaintiff's motion, concluding that plaintiff had not established that the absence of a set screw coupling proximately caused the accident, but otherwise affirmed. The Court of Appeals answered the certified question in the negative, reversed as to 1095 and Magen, granted their summary judgment motion, and dismissed Dechert's appeal because Dechert was not aggrieved.

DISPOSITION

reversed

CASES CITED

- *Rocovich v. Consolidated Edison Co.*, 78 N.Y.2d 509, 513 (1991)
- *Wilinski v. 334 E. 92nd Hous. Dev. Fund Corp.*, 18 N.Y.3d 1, 7 (2011)
- *Narducci v. Manhasset Bay Assoc.*, 96 N.Y.2d 259, 267-268 (2001)
- *Ross v. Curtis-Palmer Hydro-Elec. Co.*, 81 N.Y.2d 494, 501 (1993)
- *Outar v. City of New York*, 5 N.Y.3d 731, 732 (2005)
- *Quattrocchi v. F.J. Sciamè Constr. Corp.*, 11 N.Y.3d 757, 759 (2008)