

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Cabot Oil & Gas Corporation and Cranberry Pipeline Corporation v. Beaver Coal Company, Limited; Beaver Coal Company, Limited v. Cabot Oil & Gas Corporation and Cranberry Pipeline Corporation

Cabot Oil & Gas v. Beaver Coal · No. Nos. 16-0904 and 16-0905 · Decided November 9, 2017

SUMMARY

The West Virginia Supreme Court of Appeals reviewed consolidated appeals concerning a circuit court order referring disputes between Beaver Coal Company and Cabot Oil & Gas Corporation and Cranberry Pipeline Corporation to arbitration. The court affirmed in part and reversed in part, rejecting the circuit court's application of an intervening-law exception to res judicata and its instructions concerning the law and rulings to be applied by the arbitrators. The decision also held that the Cabot defendants had not waived their contractual right to arbitration.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Allen H. Loughry II; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	November 9, 2017
DOCKET	Nos. 16-0904 and 16-0905
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Consolidated appeals from the circuit court's August 25, 2016 order removing the case from its docket, referring all claims to arbitration, applying an intervening-change-in-law exception to res judicata, and directing the arbitrators regarding the law and rulings to apply.
STANDARD OF REVIEW	The court conducts de novo review of the circuit court's legal determinations and will preclude enforcement of an order compelling arbitration only when that review leads to the inescapable conclusion that the circuit court clearly erred as a matter of law.
PRECEDENTIAL VALUE	unpublished memorandum decision

PARTIES

Cabot Oil & Gas Corporation, Cranberry Pipeline Corporation, Beaver Coal Company, Limited v. Beaver Coal Company, Limited, Cabot Oil & Gas Corporation, Cranberry Pipeline Corporation

TOPICS

arbitration

res judicata

oil and gas

contracts

appellate procedure

PRACTICE AREAS

arbitration

contract law

oil and gas

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Cabot defendants waived their contractual right to arbitrate.
2. Whether the 2004 arbitration award and res judicata barred Beaver's royalty-related claims and whether West Virginia recognizes an intervening-change-in-law exception to res judicata.
3. Whether claims arising solely under the 1977 Agreement could be referred to arbitration when that agreement contained no applicable arbitration provision and did not incorporate the 1929 lease.
4. Whether the circuit court exceeded its authority by directing arbitrators regarding the law to apply and the circuit court's rulings to follow.

HOLDINGS

1. The Cabot defendants did not waive their contractual right to arbitration because, under the totality of the circumstances, they repeatedly asserted and sought to enforce the arbitration provision and did not intentionally relinquish that right.
2. West Virginia has not recognized an intervening-change-in-law exception to res judicata; the circuit court therefore erred by refusing to give binding effect to the 2004 arbitration award on that basis.
3. Claims arising solely under the 1977 Agreement could not be compelled to arbitration because that agreement contained no applicable arbitration provision and did not incorporate the 1929 Lease. Claims arising under the 1929 Lease were properly referred to arbitration.
4. A trial court compelling arbitration under the Federal Arbitration Act is limited to deciding whether a valid arbitration agreement exists and whether the claims fall within its substantive scope; it may not decide the merits or direct the arbitrator regarding the governing law or rulings to follow.

KEY QUOTATIONS

"When a trial court is required to rule upon a motion to compel arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1-307 (2006), the authority of the trial court is limited to determining the threshold issues of (1) whether a valid arbitration agreement exists between the parties; and (2) whether the claims averred by the plaintiff fall within the substantive scope of that arbitration agreement." (p. 15)

“As in TD Ameritrade, we find that the circuit court’s “foray into matters reserved for arbitral resolution was clearly improper.”” (p. 16)

FACTUAL BACKGROUND

Beaver and Godfrey L. Cabot, Inc. entered a 1929 lease granting rights to mine, explore, extract, and remove oil and gas from Beaver's Raleigh County property; the lease contained a broad binding-arbitration provision. A 1977 agreement separately granted pipeline rights but contained only a limited arbitration provision concerning stumpage prices and did not incorporate the 1929 lease. After a 2001 arbitration concerning royalty calculations and post-production deductions, an arbitration award issued in 2004 and the parties continued performing under it. Beaver later asserted additional lease, pipeline, trespass, ejectment, and forfeiture claims, relying in part on the intervening decision in *Estate of Tawney v. Columbia Natural Resources, Inc.*

PROCEDURAL HISTORY

Beaver filed an action in 2008 asserting claims concerning royalty payments, lease and pipeline assignments, trespass, ejectment, and forfeiture. The action was removed to federal court and remanded to the circuit court in 2009. After denying the Cabot defendants' motion to dismiss, the circuit court ultimately referred all claims to arbitration, recognized an intervening-law exception to res judicata based on *Estate of Tawney*, and instructed the arbitrators to follow the circuit court's rulings. The parties filed consolidated appeals.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion. Claims under the 1929 Lease are to be arbitrated; claims arising solely under the 1977 Agreement, including the specified portions of Counts III, V, VI, and VII, are not to be arbitrated. The circuit court's intervening-law exception to res judicata and its directions concerning the law and rulings the arbitrators must follow are reversed.

CASES CITED

- *McGraw v. American Tobacco Co.*, 224 W. Va. 211, 681 S.E.2d 96 (2009)
- *Williams v. Tucker*, 239 W. Va. 395, 801 S.E.2d 273 (2017)
- *Parsons v. Halliburton Energy Serv. Inc.*, 237 W. Va. 138, 785 S.E.2d 844 (2016)
- *Blake v. Charleston Area Med. Ctr., Inc.*, 201 W. Va. 469, 498 S.E.2d 41 (1997)
- *Boomer Coal & Coke Co. v. Osenton*, 101 W. Va. 683, 133 S.E. 381 (1926)
- *Estate of Tawney v. Columbia Natural Resources, Inc.*, 219 W. Va. 266, 633 S.E.2d 22 (2006)
- *Wellman v. Energy Resources, Inc.*, 210 W. Va. 200, 557 S.E.2d 254 (2001)
- *Leggett v. EQT Production Co.*, 239 W. Va. 264, 800 S.E.2d 850 (2017)
- *Marguerite Coal Co. v. Meadow River Lumber Co.*, 98 W. Va. 698, 127 S.E. 644 (1925)
- *Baldwin v. Traveling Men's Ass'n*, 283 U.S. 522 (1931)

- *Federated Department Stores, Inc. v. Moitie*, 452 U.S. 394 (1981)
- *Hart Steel Co. v. Railroad Supply Co.*, 244 U.S. 294 (1917)
- *State ex rel. Johnson Controls, Inc. v. Tucker*, 229 W. Va. 486, 729 S.E.2d 808 (2012)
- *State ex rel. T.D. Ameritrade, Inc. v. Kaufman*, 225 W. Va. 250, 692 S.E.2d 293 (2010)
- *AT&T Technologies, Inc. v. Communications Workers*, 475 U.S. 643 (1986)
- *CDS Family Trust, LLC v. ICG, Inc.*, No. 13-0375, 2014 WL 184441 (W. Va. Jan. 13, 2014)
- *American Home Assurance Co. v. Vecco Concrete Construction Co., Inc.*, 629 F.2d 961 (4th Cir. 1980)
- *American Recovery Corp. v. Computerized Thermal Imaging, Inc.*, 96 F.3d 88 (4th Cir. 1996)

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