

APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT

New Planet Energy Development LLC v. Magee

2020 IL App (4th) 200043 · No. 4-20-0043 · Decided December 3, 2020

SUMMARY

The Illinois Appellate Court, Fourth District, reviewed the dismissal of plaintiffs' contract-related claims on forum non conveniens grounds in favor of Rockland County, New York. The court held that defendants' motion was untimely under Illinois Supreme Court Rule 187(a) and that defendants failed to establish good cause for an extension under Rule 183. The court reversed the dismissal and remanded for further proceedings.

CASE DETAILS

COURT	Appellate Court of Illinois, Fourth District
WRITING FOR THE COURT	Justice Harris; Presiding Justice Steigmann; Justice DeArmond
JURISDICTION	Illinois
DECIDED	December 3, 2020
DOCKET	4-20-0043
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed the Sangamon County circuit court's dismissal of their complaint on forum non conveniens grounds in favor of Rockland County, New York.
STANDARD OF REVIEW	Interpretation of Illinois Supreme Court rules is reviewed de novo. Whether good cause exists under Rule 183 and whether to grant a forum non conveniens motion are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published and precedential Illinois Appellate Court opinion
PARTIES	New Planet Energy Development LLC, NPE Holdings LLC, NPE Stony Point Land LLC v. Patrick Magee Sr., Patrick Magee Jr., MBC Contractor, Inc., MBC Holding LLC, LLS Holding LLC, KBT Properties, LTD.

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QUESTIONS PRESENTED

1. Whether defendants' September 3, 2019, forum non conveniens motion was timely under Illinois Supreme Court Rule 187(a).
2. Whether the circuit court properly extended Rule 187(a)'s 90-day filing deadline under Illinois Supreme Court Rule 183 for good cause.
3. Whether the circuit court abused its discretion by considering and granting the forum non conveniens motion.

HOLDINGS

1. A forum non conveniens motion must be filed no later than 90 days after the last day allowed for the moving party's answer. Defendants' motion, filed more than a year after the July 30, 2018, answer deadline, was untimely.
2. The circuit court abused its discretion by extending the Rule 187(a) deadline because defendants failed to establish good cause for their delay.
3. Because the motion was untimely and defendants did not establish good cause for an extension, the circuit court erred by considering and granting the motion to dismiss.

KEY QUOTATIONS

“Here, the plain language of Rule 187(a) is clear and unambiguous, providing that “the 90-day time limit is triggered by the deadline set for ‘the last day allowed for the filing of’ ” the moving party’s answer.” (¶ 22)

““The court, for good cause shown on motion after notice to the opposite party, may extend the time for filing any pleading or the doing of any act which is required by the rules to be done within a limited period, either before or after the expiration of the time.”” (¶ 29)

““good cause is not synonymous with the nonmovant’s lack of harm.”” (¶ 30)

“In this case, defendants failed to comply with Rule 187(a)’s filing deadline and otherwise failed to establish “good cause” under Rule 183 for their noncompliance.” (¶ 39)

FACTUAL BACKGROUND

Plaintiffs, Delaware-organized companies with principal offices in Springfield, Illinois, entered into an agreement with New York residents and New York entities concerning the development of a solid-waste processing facility on defendants' properties in Stony Point, New York. Plaintiffs alleged they paid defendants approximately \$3.6 million toward a \$3.7 million installment purchase arrangement but received no ownership or leasehold rights. The complaint alleged Illinois contacts, including plaintiffs' Springfield operations and communications with defendants, while defendants asserted that the property, witnesses, and evidence were centered in New York.

PROCEDURAL HISTORY

Plaintiffs filed claims for breach of contract, breach of the duty of good faith and fair dealing, fraud, and unjust enrichment in the Circuit Court of Sangamon County. Defendants filed their answer on July 30, 2018, later pursued amended counterclaims, and filed a forum non conveniens motion on September 3, 2019. The circuit court extended the Rule 187(a) deadline under Rule 183, granted the motion, and dismissed the complaint without prejudice subject to refiling in Rockland County, New York. The Illinois Appellate Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the circuit court for further proceedings; the opinion did not direct dismissal or transfer to New York.

CASES CITED

- Langenhorst v. Norfolk Southern Ry. Co., 219 Ill. 2d 430, 441, 848 N.E.2d 927, 934 (2006)
- Fennell v. Illinois Central R.R. Co., 2012 IL 113812, ¶ 12, 987 N.E.2d 355
- Miller v. Consolidated Rail Corp., 173 Ill. 2d 252, 259-60, 671 N.E.2d 39, 43-44 (1996)
- Ferris, Thompson & Zweig, Ltd. v. Esposito, 2017 IL 121297, ¶ 22, 90 N.E.3d 400
- Vision Point of Sale, Inc. v. Haas, 226 Ill. 2d 334, 347-54, 875 N.E.2d 1065 (2007)
- Ellis v. AAR Parts Trading, Inc., 357 Ill. App. 3d 723, 738, 828 N.E.2d 726, 739 (2005)
- In re Marriage of Clark, 232 Ill. App. 3d 342, 597 N.E.2d 240 (1992)
- Eads v. Consolidated Rail Corp., 365 Ill. App. 3d 19, 29, 847 N.E.2d 601, 611 (2006)
- Chochorowski v. Home Depot U.S.A., Inc., 376 Ill. App. 3d 167, 171-72, 875 N.E.2d 682, 687 (2007)
- Bell v. Louisville & Nashville R.R. Co., 106 Ill. 2d 135, 146, 478 N.E.2d 384, 389 (1985)