SUPREME COURT OF ALABAMA

Jewett v. Boihem

23 So. 3d 658 (Ala. 2009) · No. 1071534 · Decided May 15, 2009

SUMMARY

The Supreme Court of Alabama affirmed a judgment awarding Lester Boihem restitution for money paid toward an aborted purchase of a 50% interest in Accu-Crete, LLC. The court held that William Jewett could be liable for restitution even though some payments were made to the company, because Jewett controlled the company and benefited indirectly from the payments.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Woodall, Justice; Cobb, Chief Justice; Lyons, Justice; Parker, Justice; Shaw, Justice
JURISDICTION	Alabama
DECIDED	May 15, 2009
DOCKET	1071534
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jewett appealed from a nonjury trial judgment awarding Boihem restitution and interest after Boihem abandoned his pleaded breach-of-contract, money-had-and-received, and unjust-enrichment claims as separate theories and sought only return of the money he paid.
STANDARD OF REVIEW	When a trial court hears ore tenus testimony, its findings on disputed facts are presumed correct and will not be reversed unless the judgment is palpably erroneous or manifestly unjust.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	William R. Jewett v. Lester Boihem

TOPICS

restitution · unjust enrichment · remedies · contracts · limited liability companies

PRACTICE AREAS

contracts · restitution · commercial litigation · corporate law

QUESTIONS PRESENTED

1. Whether the trial court's restitution judgment was palpably erroneous or manifestly unjust under the ore tenus standard.
2. Whether Jewett could be ordered to make restitution when some of Boihem's payments were made to Accu-Crete, LLC, rather than directly to Jewett.
3. Whether Accu-Crete, LLC, was a necessary or indispensable party under Ala. R. Civ. P. 19(a).

HOLDINGS

1. The restitution judgment was not palpably erroneous or manifestly unjust because the evidence authorized findings that Jewett was enriched by Boihem's payments, Boihem received none of the bargained-for consideration, and the consideration justly belonged to Boihem.
2. A defendant may be liable in restitution for money paid to a company rather than directly to the defendant when the payment was made at the defendant's direction and the defendant ultimately controlled the company and benefited from the payment.
3. Accu-Crete, LLC, was not required to be joined because Boihem's agreement was with Jewett and Boihem sought restitution from Jewett, not from the company.

KEY QUOTATIONS

> *"Jewett cannot avoid restitutionary principles by mere form, that is, by arbitrarily directing payment to one of two bank accounts, both of which were under his ultimate control."* (23 So. 3d at 662)

> *"His agreement was with Jewett, and it is from Jewett that he seeks restitution."* (23 So. 3d at 663)

FACTUAL BACKGROUND

Jewett, the sole owner and manager of Accu-Crete, LLC, agreed to sell Boihem a 50% interest in the company for $2 million, contingent on no material adverse change before closing. Boihem paid Jewett and the company a total of $1,315,000, but the transaction did not close by the March 15, 2006 deadline. While still requesting payments from Boihem, Jewett secretly negotiated and ultimately transferred substantial company assets to Delta Industries; he later declared Boihem in default and did not return the payments. The trial court found that Boihem received nothing for his payments and awarded restitution.

PROCEDURAL HISTORY

Boihem sued Jewett on January 10, 2007, after an anticipated purchase of a 50% interest in Jewett's company failed to close and Jewett transferred company assets to Delta Industries. The trial court entered a judgment for Boihem in the amount of $1,495,547. Jewett argued on appeal that the judgment was unsupported by the evidence and that the company was a necessary or indispensable party. The Supreme Court of Alabama affirmed.

DISPOSITION

affirmed

CASES CITED

- Black Diamond Dev., Inc. v. Thompson, 979 So. 2d 47, 52 (Ala. 2007)
- New Props., L.L.C. v. Stewart, 905 So. 2d 797, 799 (Ala. 2004)
- Philpot v. State, 843 So. 2d 122, 125 (Ala. 2002)
- Kennedy v. Polar-BEK & Baker Wildwood P'ship, 682 So. 2d 443, 447 (Ala. 1996)
- Staats v. Miller, 243 S.W.2d 686, 687-88 (Tex. 1951)
- United States v. Jefferson Electric Mfg. Co., 291 U.S. 386, 402-03 (1934)
- Opelika Prod. Credit Ass'n v. Lamb, 361 So. 2d 95, 99 (Ala. 1978)
- Pratt v. Watkins, 946 F.2d 907, 909 (Temp. Emer. Ct. App. 1991)
- Weakley v. Brahan, 2 Stew. 500, 501 (Ala. 1830)
- Oliver v. Camp, 9 Ala. App. 232, 62 So. 469, 470 (1913)