

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Hanover Insurance Company v. Catlin Specialty Insurance Company

Hanover Ins. Co. v. Catlin Specialty Ins. Co., 2023 NY Slip Op 03911 (App. Div. 2023) · No. 2020-06515 ·
Decided July 26, 2023

SUMMARY

The Appellate Division, Second Department, affirmed dismissal of Hanover Insurance Company's claims against Catlin Specialty Insurance Company in a dispute over additional-insured coverage for Industria Superstudio Overseas. The court held that the construction contract unambiguously identified Fabrizio Ferri, rather than Overseas, as the contracting owner and remitted the matter for entry of a declaratory judgment that Catlin had no duty to defend or indemnify Overseas.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Colleen D. Duffy, J.P.; Joseph J. Maltese, J.; Deborah A. Dowling, J.; Barry E. Warhit, J.
JURISDICTION	New York
DECIDED	July 26, 2023
DOCKET	2020-06515
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting Catlin Specialty Insurance Company's motion under CPLR 3211(a)(1) to dismiss the complaint insofar as asserted against it in an action seeking a declaration of a duty to defend and indemnify.
STANDARD OF REVIEW	The court reviewed the construction contract de novo as a question of law and reviewed dismissal under CPLR 3211(a)(1) based on documentary evidence.
PRECEDENTIAL VALUE	Published opinion of the Appellate Division, Second Department; precedential under New York law, subject to revision before publication in the Official Reports.
PARTIES	Hanover Insurance Company v. Catlin Specialty Insurance Company

TOPICS

duty to defend duty to indemnify declaratory relief insurance contract interpretation motions to dismiss

PRACTICE AREAS

insurance coverage construction law contract interpretation civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the construction contract was ambiguous as to whether Industria Superstudio Overseas was a contracting party or additional insured.
2. Whether the Supreme Court properly granted Catlin's CPLR 3211(a)(1) motion to dismiss the coverage claims.
3. Whether the court should remit the matter for entry of a declaratory judgment concerning Catlin's duty to defend and indemnify Overseas.

HOLDINGS

1. The construction contract unambiguously identified Fabrizio Ferri as the sole Owner contracting with Bulson Management LLC; Industria Superstudio Overseas was not a party to the contract and the additional-insured language did not apply to it.
2. Dismissal of the complaint insofar as asserted against Catlin was proper under CPLR 3211(a)(1) because the documentary evidence conclusively established that Overseas was not entitled to the claimed coverage.
3. Catlin had no duty to defend or indemnify Industria Superstudio Overseas in the underlying personal injury action.

KEY QUOTATIONS

"[A] written agreement that is complete, clear and unambiguous on its face must be enforced according to the plain meaning of its terms" ([*1])

"Whether or not a writing is ambiguous is a question of law to be resolved by the courts" ([*1])

"Extrinsic or parol evidence 'is admissible only if a court finds an ambiguity in the contract'" ([*1])

FACTUAL BACKGROUND

Catlin issued an insurance policy to general contractor Bulson Management LLC. The construction contract identified the contracting parties as the Owner, Fabrizio Ferri, and the Contractor, Bulson, and stated that those terms referred to a single person or entity. The contract was signed by Ferri and Bulson, did not mention Industria Superstudio Overseas, and left blank the space for identifying an Owner representative. Hanover nevertheless sought a declaration that Catlin was required to defend and indemnify Overseas in an underlying personal injury action.

PROCEDURAL HISTORY

Hanover commenced a declaratory judgment action concerning coverage for nonparty Industria Superstudio Overseas in an underlying personal injury action. Catlin moved to dismiss based on documentary evidence, arguing that Overseas was not an additional insured under Catlin's policy or the construction contract. The Supreme Court, Kings County, granted the motion, and Hanover appealed. The Appellate Division affirmed and remitted for entry of a declaration that Catlin had no duty to defend or indemnify Overseas.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remitted to the Supreme Court, Kings County, for entry of a judgment declaring that Catlin Specialty Insurance Company has no duty to defend or indemnify Industria Superstudio Overseas in Wang v. Industria Superstudio Overseas, Inc., Index No. 519101/16.

CASES CITED

- Greenfield v. Philles Records, 98 N.Y.2d 562, 569
- Donohue v. Cuomo, 38 N.Y.3d 1, 13
- W.W.W. Assoc. v. Giancontieri, 77 N.Y.2d 157, 162
- Schron v. Troutman Sanders LLP, 20 N.Y.3d 430, 436
- Goodale v. Central Suffolk Hosp., 210 A.D.3d 956, 957
- State of New York v. Home Indem. Co., 66 N.Y.2d 669, 671
- Concordia Gen. Contr. Co., Inc. v. Preferred Mut. Ins. Co., 146 A.D.3d 932, 934
- U.S. Bank, N.A. v. Faracco, 204 A.D.3d 953, 955
- Lanza v. Wagner, 11 N.Y.2d 317, 334
- Ralex Servs., Inc. v. Southwest Mar. & Gen. Ins. Co., 155 A.D.3d 800, 802