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Louisiana Doctrine of Judicial Control Applied to Deny Lease Cancellation/Dissolution Where No Other Remedy Sought

In an unpublished decision, the United States Court of Appeals for the Fifth Circuit in *Walker v. Chesapeake Louisiana, L.P.*, 10-31074 (U.S. 5th Cir. 8/8/2011), 2011 WL 3444162, examined the claims of the six plaintiff-lessors that the lessee, Chesapeake Louisiana, L.P. (“Chesapeake”), breached three key, specially-negotiated lease provisions. As a result of the breach(es), plaintiff-lessors requested only the dissolution of the leases as the sole remedy. In response to plaintiffs’ claims, Chesapeake filed a motion for summary judgment on the grounds that the only remedy sought, lease cancellation/dissolution, is an extraordinary remedy to which plaintiffs are not entitled for two reasons: 1) Chesapeake had substantially performed under the subject leases, and 2) even assuming Chesapeake did breach the leases at issue, under the Louisiana doctrine of “judicial control”, the alleged breach(es) of the lease provisions did not warrant the dissolution of the leases.

In response to Chesapeake’s motion for summary judgment, plaintiff-lessors remarkably acknowledged that although they could have also pursued other remedies such as specific performance and/or damages, they chose to pursue only the remedy of lease dissolution. The district court noted that while the lease agreements themselves did not contain provisions for lease cancellation or dissolution in the event of a breach of any of the provisions thereof, Louisiana Civil Code Articles 2013 and 2014 provide for lease dissolution when the lessee has not rendered a substantial part of the performance, and the part not rendered substantially impairs the interest of the lessor. Thus, the remedy of lease dissolution hinged on the question of whether Chesapeake had rendered substantial performance under the subject lease. The district court found that this question was, by its very nature, a question of fact, and thus, summary judgment was inappropriate under this theory.

However, under the doctrine of “judicial control”, Louisiana courts are vested with discretion to decline to grant lease dissolution, despite breaches of its terms, because the remedy

of lease dissolution is not favored in Louisiana law, and may instead order a lesser remedy. Applying this doctrine, the district court concluded that the alleged breaches were not so substantial and damaging to the plaintiff-lessors to warrant the harsh remedy of lease dissolution. Moreover, as the plaintiff-lessors did not seek any other remedy or relief, the district court granted Chesapeake's motion for summary judgment dismissing the entire case. Plaintiff-lessors appealed the decision to the U.S. 5th Circuit, which stated that the sole issue was whether the district court abused its discretion in refusing to declare a dissolution of the leases at issue.

In its appeal, plaintiff-lessors urged the Court to apply Louisiana Civil Code Article 2013, which they contended requires lease cancellation whenever the lessee commits a breach of the lease. However, the Court stated that "the Civil Code is better read as simply creating a right to seek dissolution in court." According to the Court, Louisiana jurisprudence does not favor lease cancellation and the doctrine of judicial control can be applied to avoid cancellation of a lease when the lessee's breach is not so substantial or injurious to the lessor.

The Court then looked to the specific allegations of breach of the leases in light of the foregoing principles. First, plaintiff-lessors alleged that Chesapeake breached the "no surface operations" clause when it crossed the leased premises using all-terrain vehicles and "soft staking" a future well location without their consent. However, the plaintiff-lessors conceded that no physical damage occurred to the leased premises as a result. Second, plaintiff-lessors alleged that Chesapeake breached the "well information" clause by not providing them with any information regarding a particular well located on the leased premises. However, the Court noted that one day after being notified of the alleged breach, Chesapeake provided plaintiffs with the requested information. As to both of these allegations, the Court found that even assuming there was a breach of the "no surface operations clause" and/or "well information" clauses, the district court did not abuse its discretion in finding there was no genuine dispute of material fact as to the issue of whether the breach was sufficiently substantial or injurious to plaintiffs to justify lease cancellation.

The third and last allegation of plaintiff-lessors was that Chesapeake breached the "geophysical information" clause when it acquired seismic permits on lands within one mile of the leased premises, but refused to negotiate in good faith with plaintiffs concerning inclusion of the leased premises and/or provide plaintiffs with fully imaged 3-D seismic coverage of the leased premises. Apparently, the plaintiff-lessors and Chesapeake each asserted differing interpretations of the rights and obligations of the parties under the "geophysical information" clause. As such, the Court held that the district court did not abuse its discretion by ruling that the differing interpretations provided an "honest doubt" as to the parties' rights under the leases and no genuine dispute of material fact existed as to whether plaintiffs were clearly entitled to the remedy of lease dissolution.

Consequently, the U.S. Fifth Circuit affirmed the district court's grant of summary judgment in favor of Chesapeake dismissing plaintiff-lessors' case, holding that there was no genuine issue of material fact as to whether or not the plaintiff-lessors were entitled to the harsh remedy of lease dissolution.

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