STATE OF MICHIGAN

COURT OF APPEALS

GIRARD PETER FONTANA, by EILEEN FONTANA, as Guardian of his person and conservator of his estate; EILEEN FONTANA, individually; and JACOB FONTANA, by his next friend, EILEEN FONTANA; and CORA FONTANA, individually,

Plaintiffs-Appellants,

v

AUTOMOBILE CLUB INSURANCE ASSOCIATION,

Defendant-Appellee.

February 15, 1994

No. 143780
LC 89003897 CZ

Before: Marilyn Kelly, P.J, and Cavanagh and J.A. Murphy,* JJ.

PER CURIAM.

Plaintiffs appeal as of right from a declaratory judgment in favor of defendant, Automobile Club Insurance Association, made pursuant to MCR 2.605. On appeal, they claim they were entitled to additional recovery from the policies covering a second and third automobile insured by defendant. They contend that two provisions of the insurance policy in question should have been construed against defendant because they were vague and ambiguous. We affirm.

Girard Fontana was injured in an automobile accident involving a 1967 Oldsmobile owned by Gerald Mehl and driven by his wife, Julia Mehl. Gerald Mehl owned three automobiles. Defendant had issued one policy covering the 1967 Oldsmobile involved in the accident and the second Mehl car; an identical policy covered the third car. Gerald Mehl was the named insured on both policies. Julia Mehl was also an insured. The terms of the policies applied separately to each car on the multi-vehicle policy. The liability coverage for each car was $20,000.

The parties entered into a consent judgment for $60,000. Under it, defendant paid $20,000, the limit of liability on the 1967 Oldsmobile. The judgment further provided that plaintiffs and defendant would litigate the issue of whether plaintiffs were entitled to an additional recovery from the policies issued by defendant covering the second and third cars belonging to Gerald Mehl. Plaintiffs sought a declaratory judgment.

The following provisions in the insurance policies were at issue:

"Limits of Liability"

> We will pay no more than the limits shown on the Declaration Certificate for a car described and identified by a Vehicle Reference Number when the liability is due to that car, a temporary substitute or replacement for it or a trailer owned by you.

"No Duplication or Pyramiding"

*Circuit judge, sitting on the Court of Appeals by assignment.

> Under no circumstances will we be required to pyramid or duplicate any types, amounts or limits of motor vehicle coverages available from us or any other insurance company. This condition does not apply to Death Indemnity Coverage.

The trial court concluded that the contract provisions clearly and unambiguously prohibited duplication of coverage; there could be no stacking of the liability limits for the second and third cars onto the liability limit of the policy covering the 1967 Oldsmobile involved in the accident. The court found the language of the insurance policies to be clear and unambiguous and the anti-stacking provisions enforceable. It denied plaintiffs' motion for judgment in its favor, concluding that insurance coverage was limited to the $20,000 that defendant had already disbursed.

An insurance policy will be enforced according to its terms as long as it is clear, unambiguous and not in contravention of public policy. Group Ins Co v Czopek, 440 Mich 590, 595-596; 489 NW2d 444 (1992). The policy's language is clear if it fairly admits of but one interpretation. Farm Bureau Ins v Stark, 437 Mich 175, 182; 468 NW2d 498 (1991). Anti-stacking provisions that are clear and unambiguous are not contrary to public policy. State Farm Ins v Tiedman, 181 Mich App 619, 624; 450 NW2d 13 (1989). Review of a declaratory judgment is conducted de novo. Englund v State Farm, 190 Mich App 120, 121; 475 NW2d 369 (1991).

In this case, plaintiffs claim that Julia Mehl was not clearly excluded from coverage. However, the argument is unimportant, since defendant never claimed that Julia Mehl was excluded from coverage. Further, the existence of coverage does not overcome the result dictated by the limits of liability and the anti-stacking provisions. See DeMaria v Automobile Club Ass'n, 151 Mich App 252, 254-255; 390 NW2d 175 (1982), on remand 165 Mich App 251 (1987).

The provisions in the insurance policies which deal with the limits of liability and anti-stacking are clear and unambiguous. The only fair reading leads to the conclusion that, regardless of the car involved, defendant would not be liable for more than the policy limits applicable to any one car. Consequently, these provisions must be enforced according to their terms. Stark, 182; Group Ins, 596-597.

Affirmed.

/s/ Marilyn Kelly
/s/ Mark J. Cavanagh
/s/ John A. Murphy