STATE OF MICHIGAN

COURT OF APPEALS

WILLAM A. LAHAR and THERESA M. LAHAR,

Plaintiffs-Appellants,

v

DAVID E. McNEILL and DAIIE doing business as AAA of MICHIGAN,

Defendants-Appellees.

UNPUBLISHED
December 30, 1997

No. 195955
Bay Circuit Court
LC No. 93-003563-NI

DAVID E. McNEILL,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION,

Defendant-Appellee.

No. 196205
Bay Circuit Court
LC No. 94-003260

Before: Saad, P.J., and Holbrook and Doctoroff, JJ.

PER CURIAM.

In these actions consolidated on this Court's own motion, plaintiffs appeal by right from an order granting summary disposition in favor of AAA of Michigan ("AAA")[1] pursuant to MCR 2.116(C)(10). The trial court declared that AAA was not required to provide personal injury protection benefits to McNeill or third-party coverage for the injuries sustained by the Lahars. We affirm.

On June 18, 1992, David McNeill purchased a beige 1981 Volkswagen. The following morning, McNeill was driving the vehicle when he fell asleep at the wheel and collided with a car driven by William Lahar. McNeill was severely injured in the accident and was hospitalized for three months. Lahar and his wife obtained a judgment against McNeill in the amount of

$150,000. Around the same time, McNeill filed suit against AAA for personal injury protection benefits due under an automobile insurance policy that McNeill's wife had purchased on June 19, 1992, after the accident had occurred. AAA denied liability under the policy.

Plaintiffs argue that the subject insurance policy effectively provided coverage for the vehicle McNeill was driving in the June 19, 1992 accident which left both McNeill and the Lahars injured. We disagree. In this case, the insured purchased an automobile insurance policy after the automobile accident which gave rise to the current claims. The policy covered two vehicles, neither of which was involved in the accident. For some reason that is not clear from the record, the policy was backdated to June 14, 1992, so that it purported to provide retroactive coverage. Below, plaintiffs sought to invoke a provision of the policy that would have allowed the McNeills to declare the vehicle involved in the accident a "replacement" or "additional" vehicle, which would obligate AAA to provide coverage.

After reviewing the lower court record de novo, we are persuaded that there was no insurance contract between the McNeills and AAA relative to the accident at issue or the vehicle involved in the accident. Deborah McNeill's deposition admissions are dispositive. When asked whether she had any intent to insure the vehicle involved in the accident, she replied, "I never planned to insure that Volkswagen once it was crashed, because it was crashed." In our view, this admission precludes coverage. Our courts have long held that an insurance contract, like any other contract, must effectuate the intent of the parties, and the reviewing Court must determine the intent of the parties and enforce it accordingly. *Eghotz v Creech*, 365 Mich 527, 530; 113 NW2d 815 (1962). As Mrs. McNeill's admission makes clear, there was never any agreement between these parties to insure the vehicle involved in the accident. Rather, the record reveals that, following the accident, Mrs. McNeill became concerned that she had no insurance coverage on the McNeill's other two vehicles, a Ford Taurus and a white Volkswagen. For this reason, on the day of the accident, she left her husband's bedside and purchased insurance on those two vehicles only. That is what she bargained for, and, as her admission indicates, that was what the contract was intended to cover. Accordingly, the trial court did not err in granting AAA's motion for summary disposition.

Given our disposition on this issue, we need not address plaintiffs' other issues raised on appeal.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ Martin M. Doctoroff

[1] At the hearing on AAA's motion for summary disposition, the trial court noted that AAA and Auto Club Insurance Association ("ACIA") are the same entity.