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2017 IL App (3d) 160212-U

Order filed March 10, 2017

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2017

M. MINER FARMS, INC., an Illinois Corporation, and H. MINER FARMS, INC., an Illinois Corporation,)	Appeal from the Circuit Court of the 21st Judicial Circuit, Iroquois County, Illinois,
Plaintiffs-Appellants,)	
v.)	Appeal No. 3-16-0212 Circuit No. 14-MR-8
WHEATFIELD GRAIN CO., LLC, an Illinois Limited Liability Company,)	
Defendant-Appellee.)	Honorable Adrienne W. Albrecht, Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justices McDade and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court properly dismissed plaintiffs' complaint for lack of subject matter jurisdiction.

¶ 2 Plaintiffs, M. Miner Farms, Inc., and H. Miner Farms, Inc., appeal from the circuit court's decision granting defendant Wheatfield Grain's motion to dismiss. We affirm the circuit court's dismissal for lack of subject matter jurisdiction.

¶ 3 **FACTS**

¶ 4 Plaintiffs are farmers in Iroquois County, Illinois. Defendant operates a grain elevator in the same county. Plaintiffs contacted defendant regarding the sale of soybean futures. Through their agents, the parties verbally agreed that plaintiffs would sell soybeans to defendant. Defendant prepared a grain purchase contract for each plaintiff, and an agent of the plaintiffs received and signed the contracts on July 3, 2012. The contracts encompassed one page, which included the price and quantity at the top of the contract, with provisions in smaller print below. The first provision stated:

“1) National Grain and Feed Association [(NGFA)] Trade Rules to apply: except as otherwise provided herein, this contract shall be subject to the Trade Rules of the NGFA, which are incorporated herein.”

¶ 5 Later that same day, plaintiffs realized that the contracts stated the incorrect amount of soybeans. Plaintiffs informed defendant that the quantity was incorrect. The contract was never corrected.

¶ 6 Plaintiffs filed a complaint in the circuit court in Kankakee County (Kankakee action) seeking injunctive relief “to restrain and enjoin arbitration of [the] dispute pursuant to rules incorporated into the contracts” and either rescission or reformation of the contracts.¹ Defendant filed a motion to dismiss the complaint for failure of the plaintiffs to arbitrate. In granting defendant’s motion to dismiss, the court said that plaintiffs acknowledged the provision for arbitration in the contract and “[did] not dispute the validity of [that] provision.” The court relied on the United States Supreme Court’s decision in *Nitro-Lift Technologies, LLC v. Howard*, 133 S. Ct. 500 (2012), stating:

¹We rely on the circuit court’s opinion in the original case for this assumption as plaintiffs have not provided a record regarding the original complaint.

“In a Per Curiam opinion, the Court held that where there is a valid arbitration clause, attacks on the validity of the contract are to be resolved by the arbitrator in the first instances, not by a federal or state court. In the instant case, the validity of the arbitration clause was not challenged. The Defendant’s Motion to Dismiss is allowed.”

¶ 7 Plaintiffs did not appeal the circuit court’s decision. Defendant filed an arbitration complaint with the NGFA based on the damages accrued for plaintiffs’ inability to deliver on the contracts. The plaintiffs signed yet another agreement to arbitrate, an NGFA arbitration services contract, which provided, *inter alia*:

“The parties agree to comply with all NGFA Arbitration Rules ***. The parties agree that noncompliance with any NGFA Arbitration Rules may result in a default judgment.

The parties further agree to abide by the decision reached in this case and that the decision shall be final, subject to the NGFA Arbitration Rules relating to appeals.”

¶ 8 The arbitrators ruled in favor of defendant, finding that the two contracts were valid agreements between the parties and that plaintiffs did not object to the terms of the contracts, but in the alternative signed them. The decision further concluded that the parties never mutually agreed to amend the quantity terms of the contracts. Plaintiffs did not appeal under the NGFA Arbitration Rules.

¶ 9 Subsequently, plaintiffs filed a new complaint in the circuit court of Iroquois County, which is the subject of this appeal. In the interest of clarity, we note that this new complaint was

filed after the final judgment in the Kankakee action and the final arbitration award entered by the NGFA. Plaintiffs did not appeal from either decision.

¶ 10 The new Iroquois County complaint alleged that the decision of the arbitration panel was against the manifest weight of the evidence and the arbitration provision in both of the contracts was not applicable. The complaint further requested reformation or rescission of the contracts and damages. Defendant moved to dismiss the complaint, stating that the court lacked subject matter jurisdiction to hear plaintiffs' complaint as plaintiffs agreed by contract to submit the dispute to arbitration, the arbitration was final, and plaintiffs did not appeal the decision of the arbitrator. The court granted the motion to dismiss, with prejudice, stating:

“this Court lacks subject matter jurisdiction over this proceeding, as the arbitration award which is the subject of Plaintiffs' Complaint was a final award, and was not appealed pursuant to the provisions of the arbitrating body and as set forth in the arbitration agreement. FURTHER, that the complaint does not set forth the extraordinary circumstances that are required in order to set aside a final arbitration award.”

The court further stated that the decision of arbitrability had already been made by the court prior to the arbitration taking place. Plaintiffs filed a motion to reconsider and for leave to file a first amended complaint, which the circuit court denied.

¶ 11 ANALYSIS

¶ 12 On appeal, plaintiffs argue that defendant's motion to dismiss should have been denied as the court had subject matter jurisdiction to consider the complaint. In the alternative, plaintiffs argue that leave to file the first amended complaint should have been allowed. Because plaintiffs did not appeal the arbitration decision pursuant to the NGFA appeal rules, as agreed to in the

arbitration contract, the circuit court did not have jurisdiction to hear plaintiffs' complaint and no amendment to the complaint would cure such a defect.

¶ 13 A circuit court's ruling on a motion to dismiss under section 2-615 or 2-619 of the Code of Civil Procedure (735 ILCS 5/2-615, 2-619 (West 2012)) is reviewed *de novo*. *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶¶ 25, 31. Subject matter jurisdiction refers to a court's power to adjudicate the general question involved and to grant the relief requested. *In re Luis R.*, 239 Ill. 2d 295, 300-01 (2010).

¶ 14 Here, both parties signed an arbitration contract, which provided that the NGFA Arbitration Rules applied, including the NGFA Arbitration Rules as related to appeals. Such rules provided:

“A decision of the National Arbitration Committee or a judgment of default or dismissal issued by the National Secretary shall be final unless appealed by either party. If timely and properly appealed, the case shall be reviewed by the Arbitration Appeals Committee and affirmed, modified, reversed or it may be remanded for reconsideration by the National Arbitration Committee or the National Secretary. There shall be no appeal under these rules from the decision of the Arbitration Appeals Committee.” Nat'l Grain and Feed Ass'n Arb. R. 9(a) (eff. Mar. 31, 2009) available at http://www.ngfa.org/wp-content/uploads/trade_rules/2013_TradeRules_.pdf.

Plaintiffs did not appeal to the National Arbitration Committee under these rules. Once plaintiffs signed the arbitration services contract, they were bound by the provisions in the contract. See *Ure v. Wangler Construction Co., Inc.*, 232 Ill. App. 3d 492, 496 (1992). The arbitrators became the judges of the law and facts of the case. See *id.* The contract provided that NGFA Arbitration

Rules applied for appeals. Thus, plaintiffs were required to comply with the NGFA procedures for appeal under the contract. Having not followed the procedures for appeal under the NGFA Arbitration Rules, plaintiffs cannot now attempt to appeal such a decision through a complaint in the circuit court. “An arbitration award is ‘a full and final adjustment of the controversy, having all the force of an adjudication and effectually concluding the parties from again litigating the same subject.’ ” *Bertling v. Roadway Express, Inc.*, 121 Ill. App. 3d 60, 64 (1984) (quoting *White Eagle Laundry Co. v. Slawek*, 296 Ill. 240, 244 (1921)). The circuit court correctly concluded that it did not have subject matter jurisdiction to consider the case.

¶ 15 The circuit court dismissed the claim for lack of subject matter jurisdiction. The court never addressed the merits of the underlying case, “[t]herefore, the only issue before us in this appeal concerns the jurisdiction of the circuit court to consider the merits of the parties’ controversy.” *Bradley v. City of Marion*, 2015 IL App (5th) 140267, ¶ 12.

¶ 16 Plaintiffs further argue that they should have been allowed an opportunity to amend their complaint. We have reviewed plaintiffs’ proposed amended complaint and have determined that the amendments do not cure the lack of subject matter jurisdiction. The grain purchase contract that plaintiffs signed included an arbitration clause pursuant to the NGFA Trade Rules. In the Kankakee action, the circuit court determined that this clause required the parties to arbitrate any dispute. Plaintiffs did not appeal the circuit court’s decision, but instead explicitly signed a second arbitration agreement. The arbitration contract provided that NGFA Arbitration Rules applied, including that appeals from the arbitration award must be taken to the Arbitration Appeals Committee. By signing the arbitration contract, plaintiffs knowingly and voluntarily agreed that the Arbitration Appeals Committee would be the sole forum to dispute the arbitration award. Plaintiffs failed to appeal under these rules. The proposed amended complaint does not

change this fact. Therefore, the circuit court did not err in denying leave to file plaintiffs' proposed amended complaint.

¶ 17

CONCLUSION

¶ 18

For the foregoing reasons, we affirm the judgment of the circuit court of Iroquois County dismissing the case for lack of subject matter jurisdiction.

¶ 19

Affirmed.