Cite as 2023 Ark. App. 415

ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-22-581

	Opinion Delivered September 27, 2023
TEDDY J. BERRY AND ANTOINETTE GARCIA BERRY APPELLANTS	APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, SIXTH DIVISION [NO. 60CV-20-7152]
V.	HONORABLE TIMOTHY DAVIS FOX, JUDGE
FRANK SLACK AND JUANITA SLACK APPELLEES	AFFIRMED IN PART; REVERSED AND REMANDED IN PART

WENDY SCHOLTENS WOOD, Judge

Antoinette and Teddy Berry appeal the June 6, 2022 order of the Pulaski County Circuit Court granting Juanita and Frank Slack's motion for summary judgment and dismissing with prejudice the Berrys' complaint for forcible entry and detainer, trespass, and conversion. The Berrys also appeal the circuit court's July 14, 2022 order denying their motion for reconsideration. We affirm in part and reverse and remand in part.

In 2013, Teddy entered a lease agreement with the Slacks for commercial property in Little Rock where Teddy operated a powder-coating business. In 2016, Teddy pled guilty to a criminal charge in Texas and was sentenced to a term of twenty years in prison. In 2017, he married Antoinette while incarcerated, and she continued to operate the business and pay the rent in Teddy's absence.

In December 2020, while still confined in Texas, Teddy filed a complaint against the Slacks seeking compensatory and punitive damages for forcible entry and detainer, trespass, and conversion. Teddy alleged that he was in arrears in paying rent in July 2018, when the Slacks changed the locks on the property and prevented Teddy and Antoinette from accessing it. Teddy further alleged that in August, the Slacks removed, destroyed, and lost property belonging to him, Antoinette, and customers of their business. The Slacks filed a timely answer. On January 13, 2022, Teddy's complaint was amended to add Antoinette as a new plaintiff. Teddy's allegations in the amended complaint were the same ones he alleged in his original complaint, and Antoinette asserted identical claims.

The Slacks answered the amended complaint, and following discovery, they moved for summary judgment against Antoinette but not Teddy. The Slacks sought to dismiss Antoinette's claims because (1) she was not a party to the lease agreement and therefore had no standing to bring causes of action for forcible entry and detainer or trespass; and (2) her conversion claim was barred by the applicable three-year statute of limitations in Arkansas Code Annotated section 16-56-105(6) (Repl. 2005), which the Slacks argued had expired on August 21, 2021, before Antoinette joined the lawsuit as a plaintiff in December 2022.

In response to the Slacks' summary-judgment motion, Antoinette conceded that all her claims had to be brought no later than August 21, 2021. She contended that her claims nevertheless were timely by application of the relation-back doctrine that applies to amended pleadings under Rule 15(c) of the Arkansas Rules of Civil Procedure. Following Antoinette's concession, the Slacks filed a reply arguing that all of Antoinette's claims were time-barred.

On June 6, 2022, the circuit court entered an order granting summary judgment in favor of the Slacks and dismissing the Berrys' case with prejudice, without a hearing or specific findings. The Berrys moved for reconsideration or clarification, asserting that the Slacks had not moved for summary judgment against Teddy and that Antoinette's claims were timely under Rule 15(c)(1) because they arose from the same conduct, transaction, or occurrence set forth in Teddy's original complaint. The circuit court denied the Berrys' motion, and this appeal followed.

A circuit court may grant summary judgment when there are no genuine issues of material fact to be litigated and the moving party is entitled to judgment as a matter of law. *Bryant v. Hendrix*, 375 Ark. 200, 203, 289 S.W.3d 402, 404 (2008). Ordinarily, this court reviews a circuit court's decision to grant summary judgment by examining the record to determine if any genuine issues of material fact remain. *Phillipy v. Thompson*, 2020 Ark. App. 146, at 4, 597 S.W.3d 108, 111. The Berrys do not argue that there are any disputed issues of fact. They argue that the circuit court erred as a matter of law in granting summary judgment against them. When the parties do not dispute the facts on appeal from the grant of summary judgment, this court simply determines whether the appellee was entitled to judgment as a matter of law. *Id.* at 4–5, 597 S.W.3d at 112. As to issues of law, our review is de novo. *Id.*, 597 S.W.3d at 112.

For their first argument, the Berrys assert that the circuit court erred by sua sponte granting summary judgment against Teddy. The Slacks acknowledge that they did not seek summary judgment against Teddy, and they do not contest his argument for reversal on this

issue. When ruling on a motion for summary judgment, a circuit court cannot grant relief beyond that prayed for in the motion. *Young v. Staude*, 280 Ark. 298, 298–99, 657 S.W.2d 542, 543 (1983). Further, sua sponte dismissal of a party's complaint is reversible error. *Lipsey v. Giles*, 2014 Ark. 309, at 7, 439 S.W.3d 13, 18. We hold that the circuit court erred when it sua sponte granted summary judgment against Teddy, and we reverse that decision and remand for further proceedings.

For their second argument, the Berrys assert that the circuit court erred by granting summary judgment against Antoinette. Noting that the circuit court did not explain the reasons for its decision, the Berrys make several arguments that were presented in the summary-judgment filings below. When a circuit court grants a summary-judgment motion without expressly stating the basis for its ruling, that ruling encompasses all the issues that were presented to it by the briefs and arguments of the parties. *Windsong Enters., Inc. v. Red Apple Enters. Ltd. P'ship*, 2018 Ark. App. 39, at 5, 542 S.W.3d 177, 180. We begin our analysis with the statute-of-limitations argument because it is dispositive.

The Berrys concede that Antoinette's amended complaint was filed outside the applicable limitations period: Antoinette was not a party to the original complaint that Teddy filed on December 16, 2020, and she first brought her cause of action against the Slacks when she was added as a plaintiff by the amendment of Teddy's complaint on January 13, 2022, after the limitations period had already expired in August 2021. For reversal of the summary judgment, the Berrys rely exclusively on Arkansas Rule of Civil Procedure 15(c)(1) to assert that Antoinette's first complaint—the amended complaint that named her as a new

plaintiff—relates back to the filing date of Teddy's original complaint because the claims in both complaints arise from the same conduct, transaction, or occurrence.

Rule 15(c) provides the following:

> (c) *Relation Back of Amendments.* An amendment of a pleading relates back to the date of the original pleading when:
>
> > (1) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, or
> >
> > (2) the amendment changes the party or the naming of the party against whom a claim is asserted if the foregoing provision (1) is satisfied and, within the period provided by Rule 4(i) for service of the summons and complaint, the party to be brought in by amendment (A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

Ark. R. Civ. P. 15(c) (2022). This appeal requires us to interpret our rules of civil procedure. We construe court rules using the same canons of construction used for statutes. *Advocat, Inc. v. Heide*, 2010 Ark. App. 825, at 5, 378 S.W.3d 779, 782. The first rule in considering the meaning and effect of a statute is to construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language. *Id.*, 378 S.W.3d at 782–83. When the language of a statute is plain and unambiguous, there is no need to resort to rules of statutory construction, and the analysis need go no further. *Id.*, 378 S.W.3d at 783. We review issues of statutory construction de novo since it is for us to decide what a statute means. *Id.*, 378 S.W.3d at 783. We are not bound by the circuit court's decision, but in the

absence of a showing that the circuit court erred in its interpretation of the law, the circuit court's decision will be accepted as correct on appeal. *Id.*, 378 S.W.3d at 783.

Rule 15(c) allows for the relation back of amendments of a pleading to the date of the original pleading in two circumstances: when amending a claim or defense as set forth in Rule 15(c)(1) or amending a party as set forth in Rule 15(c)(2). Ark. R. Civ. P. 15(c)(1), (2). As stated above, the Berrys rely only on Rule 15(c)(1), which, by the rule's plain and unambiguous language, does not apply to Antionette's complaint because her amended complaint asserted the same claims Teddy asserted in his original complaint.

Moreover, Rule 15(a) of the Arkansas Rules of Civil Procedure provides that "a party may amend his pleadings[.] However, Rule 15 is a procedural rule that controls how a party may amend existing pleadings." *St. Paul Mercury Ins. Co. v. Cir. Ct. of Craighead Cnty.*, 348 Ark. 197, 204, 73 S.W.3d 584, 588 (2002). Before the rule can apply, there must be pleadings to amend. *Id.* at 204, 73 S.W.3d at 588. Antoinette was not a plaintiff in the original complaint; thus, she had no "existing pleading" to which she could add a claim under Rule 15(c)(1).

Teddy, on the other hand, had an existing pleading to amend, but Rule 15(c)(1) allows relation back of an amendment adding a new claim or defense to a party's existing complaint and only in limited circumstances. Ark. R. Civ. P. 15(c)(1). Teddy's amended complaint does not add a new claim or defense to his original complaint—it only adds a new plaintiff. Rule 15(c)(1)'s plain terms do not authorize the relation back of an amendment adding a new and untimely plaintiff to another plaintiff's existing, timely cause. When the language of a court

rule is plain and unambiguous, there is no need to resort to rules of statutory construction, and the analysis need go no further. *Heide*, 2010 Ark. App. 825, at 5, 378 S.W.3d at 783. Accordingly, we hold that the plain language of Rule 15(c)(1) does not authorize the relation back of Antoinette's amended complaint.

The Berrys offer no other authority or persuasive justification for allowing Antoinette's untimely amended complaint to relate back to the claims of Teddy's timely complaint. The Berrys expressly disavow any reliance on Rule 15(c)(2), which provides that an amendment of a pleading relates back to the date of the original pleading when the amendment changes the party or the naming of the party against whom a claim is asserted if certain requirements are satisfied. Ark. R. Civ. P. 15(c)(2). Antoinette is clearly not the "party against whom a claim is asserted"; rather, she is the party asserting the claim. Thus, the plain language of Rule 15(c)(2) does not apply to Antoinette's situation either.[1]

In conclusion, we hold that Rule 15(c)(1) does not apply here, and the Berrys fail to present any other convincing authority in support of their position that Antoinette's untimely amended complaint relates back to Teddy's timely filed complaint. Therefore, we affirm the circuit court's decision granting summary judgment against Antoinette. In light

[1]We note that the Slacks and the Berrys discuss *Bryant v. Hendrix* in their briefs on appeal—the Slacks argue that *Bryant* supports the circuit court's order of summary judgment, while the Berrys contend that it does not. In *Bryant*, the supreme court rejected the application of relation back under Rule 15(c)(2) where the amended complaint *substituted* the original plaintiffs (who lacked standing) with the real parties in interest after the statute of limitations had expired. 375 Ark. at 204–05, 289 S.W.3d at 405–06. *Bryant* is inapplicable in the instant case because Antoinette is not seeking to substitute herself as the real party in interest for Teddy. She is seeking to add herself as a new plaintiff along with Teddy.

of this holding, we need not address Antoinette's remaining arguments that challenge the circuit court's summary-judgment order.

In their final point on appeal, the Berrys argue that the circuit court erroneously denied their motion for reconsideration. Because we reverse the grant of summary judgment against Teddy, the issue of reconsideration is moot. For the same reasons that we affirm the circuit court's grant of summary judgment against Antoinette, we hold that the circuit court did not abuse its discretion in denying the motion for reconsideration.

Affirmed in part; reversed and remanded in part.

BARRETT and THYER, JJ., agree.

Dodds, Kidd, Ryan & Rowan, by: *Catherine A. Ryan*, for appellants.

Wright, Lindsey & Jennings LLP, by: *Jerry J. Sallings*, *Gary D. Marts, Jr.*, and *Alexander T. Jones*, for appellees.