STATE OF MICHIGAN

COURT OF APPEALS

G.B. DUPONT COMPANY, INC.,

Plaintiff-Appellant,

v

MICHIGAN MUTUAL INSURANCE COMPANY, TRAVELERS INSURANCE COMPANY, and UNITED STATES FIRE INSURANCE COMPANY,

Defendants-Appellees.

UNPUBLISHED
May 7, 1996

No. 167847
LC No. 92-223947-CZ

Before: Jansen, P.J., and McDonald and D.C. Kolenda,* JJ.

PER CURIAM.

Plaintiff appeals as of right from an August 13, 1993, order of the Wayne Circuit Court denying its motion for summary disposition and granting defendants' motions for summary disposition pursuant to MCR 2.116(C)(10) (no genuine issue as to any material fact and moving party entitled to judgment as a matter of law). We affirm.

Plaintiff manufactures threaded parts called "pins," "bolts," or "studs" used to attach seat belts to doors in General Motors vehicles. In January 1991, a defective batch of pins came to the attention of the purchaser. The defective pins broke or cracked when the "striker," which held the shoulder belt guide in place during a collision, was threaded on. General Motors replaced all defective pins and installed new strikers and restored the weather-stripping in the process. The cost was 1.6 million dollars. General Motors submitted this claim to plaintiff, which in turn submitted the claim to its various insurers, the defendants in this case. Plaintiff and General Motors later settled their dispute for 1.2 million dollars.

The insurers refused to defend and pay the claim, relying on various exclusions in the policies. As a result, plaintiff filed the instant suit against its insurers. All parties moved for summary disposition.

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

The trial court granted summary disposition in defendants' favor, finding that each policy had an exclusion so that the insurers were not liable to defend.

This case involves the interpretation and application of various exclusions in the three insurance policies. An insurance policy is essentially the same as any other contract. It is an agreement between the parties in which a court will determine what the agreement was and effectuate the intent of the parties. *Auto-Owners Ins Co v Churchman*, 440 Mich 560, 566; 489 NW2d 431 (1992). The court, therefore, must look at the contract as a whole and give meaning to all the terms. *Id.* Any clause in an insurance policy is valid as long as it is clear, unambiguous, and not in contravention of public policy. *Id.*, p 567.

Exclusionary clauses in insurance policies are strictly construed in favor of the insured. *Id.* However, there is no coverage under a policy if any exclusion within the policy applies to an insured's particular claims. *Id.* Clear and specific exclusions must be given effect because an insurance company cannot be held liable for a risk it did not assume. *Id.*

With respect to defendant United States Fire Insurance Company (U.S. Fire), we agree with the trial court that it had no duty to defend because there was no "occurrence" as defined in the policy. In the insurance policy, coverage is expressed as:

> (1) We will pay on behalf of the "Insured" those sums in excess of the "Retained Limit" which the "Insured" by reason of liability imposed by law, or assumed by the "Insured" under contract prior to the "Occurrence", shall become legally obligated to pay as damages for:
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> * * *
>
> (b) "Property Damage";
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> * * *
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> arising out of an "Occurrence" during the POLICY PERIOD stated in Item 2 of the Declarations.

An occurrence is defined in the policy as:

> (1) An accident, including continuous or repeated exposure to substantially the same general harmful conditions, that results in "Bodily Injury" or "Property Damage" that is not expected or not intended by the "Insured."
>
> All damages that arise from continuous or repeated exposure to substantially the same general conditions are considered to arise from one "Occurrence."

The insurance policy defines property damage as:

(1) physical injury to tangible property, including all resulting loss of use of that property (all such loss of use shall be deemed to occur at the time of the physical injury that caused it); or

(2) loss of use of tangible property that is not physically injured (all such loss being deemed to occur at the time of the "Occurrence" that caused it)

Plaintiff could point to no physical injury suffered by tangible property other than its own product. Exclusion E states that the policy does not apply to "Property Damage" to "Your Product," arising out of it or any part of it. Plaintiff sought reimbursement for damage arising out of the failure of its own product, which is not within the scope of coverage. Further, Exclusion F excludes "Property Damage" to "Your Work" arising out of it or any part of it and included in the "Products/Completed Operations Hazard." Exclusion G also excludes "Property Damage" to "Impaired Property" or property that has not been physically injured arising out of a defect, deficiency, inadequacy, or dangerous condition in "Your Product" or "Your Work."

Accordingly the unambiguous terms of the insurance policy issued by U.S. Fire provide that there is no coverage in this case. The trial court did not err in granting U.S. Fire summary disposition because it was under no duty to defend.

Next, we agree with the trial court that defendant Michigan Mutual Insurance Company (Michigan Mutual) was entitled to summary disposition because the events complained of did not occur during the policy period. The policy period of the insurance policy issued by Michigan Mutual was January 1, 1990 to January 1, 1991. The defective pins were noticed by the purchaser in January of 1991, but after January 1, 1991. The insurance policy provides that it applies to bodily injury and property damage only if such occurred during the policy period. Because the property damage did not occur during the policy period, Michigan Mutual is under no duty to defend. See *Stine v Continental Casualty Co,* 419 Mich 89, 96-97; 349 NW2d 127 (1984).

The trial court also did not err in granting summary disposition in favor of defendant Travelers Insurance Company (Travelers) because there was no suit as defined in the policy. In fact, plaintiff concedes that no suit as defined by the insurance policy was instituted, but argues that public policy should decree that this provision be nullified. We cannot agree with plaintiff's position because the provision in this case is not ambiguous and plaintiff has not shown how this provision contravenes public policy. See *Allstate Ins Co v Keillor (After Remand),* 450 Mich 412, 419-420; 537 NW2d 589 (1995). The clear terms of the policy issued by Travelers provide that there is no coverage in this case.

With regard to the sistership exclusions, the trial court also properly relied on those exclusions to relieve the insurers of liability. The sistership exclusions apply to relieve the insurers of liability where plaintiff's work product is the cause of the problem upon which a recall and/or repairs are necessitated. Here, the source of the problem upon which the recall was based was plaintiff's product. Thus, there is no coverage under the sistership exclusion. Our review of the exclusion leads us to conclude that the

exclusion is clear and unambiguous. Thus, it must be enforced as written. *Arco Industries Corp v American Motorists Ins Co*, 448 Mich 395, 403; 531 NW2d 168 (1995).

Because the insurance policies do not apply to provide coverage in this case by their clear terms, the trial court did not err in granting summary disposition in defendants' favor. As a matter of law, there is no coverage under any of the insurance policies. Therefore, we need not address the other issues raised by plaintiff.

Affirmed.

/s/ Kathleen Jansen
/s/ Gary R. McDonald
/s/ Dennis C. Kolenda