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Court of Appeals of Minnesota.

GANDER MOUNTAIN COMPANY, Appellant,
v.
LAZARD MIDDLE MARKET, LLC, et al.,
Respondents.

No. A11-221. | Jan. 17, 2012.

Hennepin County District Court, File No. 27-CV-10-18565.

Attorneys and Law Firms

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Considered and decided by LARKIN, Presiding Judge; KLAPHAKE, Judge; and HUDSON, Judge.

Opinion

UNPUBLISHED OPINION

KLAPHAKE, Judge.

*1 Appellant Gander Mountain Company challenges the district court's dismissal of its complaint against respondents Goldsmith, Agio, Helms Securities, Inc., and Lazard Middle Market, LLC, arguing that the district court erred by basing its decision on a forum-selection clause included in the contract between the parties.

Because the forum-selection clause encompasses the subject matter of the complaint and is not unreasonable, we affirm.

DECISION

Standard of Review

We review the district court's determination of whether a contract's forum-selection clause can be enforced for an abuse of discretion. *Hauenstein & Bermeister, Inc. v. Met-Fab Indus., Inc.*, 320 N.W.2d 886, 889-90 (Minn.1982); *Alpha Systems Integ., Inc. v. Silicon Graphics, Inc.*, 646 N.W.2d 904, 909 (Minn.App.2002), review denied (Minn. Oct. 15, 2002). But we review the district court's decision on whether a plaintiff's claim is encompassed within the terms of a forum-selection clause as a question of law. *Alpha Sys.*, 646 N.W.2d at 907. Gander Mountain argues that the contract forum-selection clause is not enforceable because it was fraudulently induced by respondents to enter into the contract. Gander Mountain also argues that the forum-selection clause does not cover the substance of its complaint because, rather than seeking a remedy under the terms of the contract, its action depends on conduct that occurred before formation of the contract.

Enforceability of Forum-Selection Clause

According to the seminal Minnesota case, forum-selection clauses are enforceable unless a party can show that enforcement of the clause would be unfair or unreasonable. *Hauenstein*, 320 N.W.2d at 890. The supreme court set forth three considerations that could lead to a conclusion that the forum-selection clause is unreasonable: (1) the chosen forum is a seriously inconvenient place for trial; (2) the underlying agreement is one of adhesion; or (3) the underlying agreement is otherwise unreasonable. *Id.* Gander Mountain has not argued that the chosen forum is inconvenient or that the contract is one of adhesion. Gander Mountain asserts instead that the underlying contract is unreasonable because it was induced to enter into the agreement by respondents' fraudulent misrepresentations.

Gander Mountain argues that because it was fraudulently induced to enter into the contract it should be void ab initio. In *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 92 S.Ct. 1907 (1972), which held forum-selection clauses enforceable, the Supreme Court noted that "[t]he correct approach would have been to enforce the forum clause specifically unless [the plaintiff] could clearly show that enforcement would be unreasonable or unjust, or that the clause was invalid for such reasons as fraud or

overreaching,” suggesting that the fraud must be directly related to the forum-selection clause. *Id.* at 15, 92 S.Ct. at 1916 (emphasis added). This approach is indirectly confirmed by the Supreme Court’s opinion in *Rent-A-Center, West, Inc. v. Jackson*, 130 S.Ct. 2772 (2010). *Rent-A-Center* dealt with a challenge to an employment contract that included a clause requiring arbitration of any enforceability dispute; the plaintiff argued that the contract was unconscionable and that therefore the mandatory arbitration clause should not be enforced. *Id.* at 2775. The Supreme Court noted that “arbitration is a matter of contract on an equal footing with other contracts ... [that] may be invalidated by generally applicable contract defenses such as fraud, duress or unconscionability.” *Id.* at 2776 (quotation and citations omitted). But the Supreme Court differentiated between a challenge to the validity of the clause agreeing to arbitration and a challenge to the entire agreement on grounds of fraudulent inducement: “a party’s challenge to another provision of the contract, or to the contract as a whole, does not prevent a court from enforcing a specific agreement to arbitrate.” *Id.* at 2778. The Supreme Court stated that the challenge must allege fraudulent inducement of the specific clause requiring arbitration in order for it to intervene. *Id.*

*2 Both *Rent-A-Center* and *M/S Bremen* suggest that in order to avoid a forum-selection clause or mandatory arbitration clause, which also selects a specific forum for dispute resolution, the party must directly challenge the clause that designates the forum. Here, Gander Mountain has not asserted that its agreement to the forum-selection clause itself was fraudulently induced.

Gander Mountain argues that Minnesota law applies a less stringent standard than the federal cases. It asserts that *Hauenstein* stands for a more flexible approach, citing language in the opinion: “Other indications of unreasonableness in forum selection agreements are sure to arise where for reasons other than those enumerated above, to enforce the agreement would be unfair or unreasonable.” 320 N.W.2d at 891. But the supreme court also noted that there are “persuasive policy reasons for enforcing a forum selection clause in a contract freely entered into by parties who have negotiated at arm’s length,” including freedom of contract and the ability to provide certainty by “obviating jurisdictional struggles.” *Id.* at 889. Gander Mountain has not demonstrated that it was somehow misled by the terms of the forum-selection clause or that it was forced to agree to it.

In *Hauenstein*, the supreme court also concluded that a forum-selection clause that contravened a strong public policy could be construed as unreasonable. *Id.* at 891. In *Alpha Systems*, we stated that “[j]udicial economy and the

prevention of multiple actions on similar issues” are public policies that could render a forum-selection clause unreasonable. 646 N.W.2d at 910. Gander Mountain has not alleged that a strong public policy would be contravened by enforcement of the forum-selection clause or that the New York courts would be unable or unwilling to consider its complaint.

We conclude that the district court did not abuse its discretion by determining that the forum-selection clause was enforceable.

Applicability of Forum–Selection Clause

Gander Mountain also contends that its claims are not within the subject matter governed by the forum-selection clause. In *Alpha Systems*, the parties had two agreements: an original reseller agreement with no forum-selection clause and a later renewal of the agreement that contained a forum-selection clause. *Id.* Plaintiff argued that it was suing under the original agreement and not the renewal agreement so that the forum-selection clause did not apply to its claims. *Id.* at 908. This court reasoned that the language of the forum-selection clause applied because it “covers ‘any dispute or controversy between the parties [that] arises out of or is related to [the renewal agreement] and/or performance or termination thereof’ ... created and defined the parties’ entire business relationship.” *Id.* We concluded that the forum-selection clause was unambiguous and of sufficient breadth to cover claims associated with the relationship of the parties created under the original agreement as well as under the renewal agreement. *Id.* at 909.

*3 The language of the forum-selection clause here is similar, making “[t]his Agreement and any claim related directly or indirectly to this Agreement” subject to the forum-selection clause .1 The district court pointed out that Gander Mountain’s claims of fraud, declaratory judgment, and equitable indemnity were all directly related to the contract, and that its requested relief included declaring the contract void and awarding damages based on payments made under the contract. All these claims are related to the relationship between the parties created by the contract. Certainly, the discussions that preceded the signing of the contract are at least indirectly related to the contract.

The district court correctly concluded that the language of this forum-selection clause is of sufficient breadth to cover the parties’ dealings both under the contract and in reaching the contract.

Affirmed.

Footnotes

- 1 This clause also includes language whereby Gander Mountain “waives on behalf of itself and its successors and assigns any and all right to argue that this choice of forum provision is or has become unreasonable.”

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