

Texaco, Inc. v. Pennzoil, Co.

Court of Appeals of Texas, First District, 1987
729 S.W.2d 768

FACTS Pennzoil negotiated with Gordon Getty and the J. Paul Getty Museum over the purchase by Pennzoil of all the Getty Oil stock held by each. Gordon Getty, who was also a director of Getty Oil, held about 40.2 percent of the outstanding shares of Getty Oil. The Museum held 11.8 percent. On January 2, a Memorandum of Agreement was drafted, setting forth the terms reached by Pennzoil, Gordon Getty, and the Museum. After increasing the offering price to \$110 per share plus a \$5 "stub" or bonus, the board of directors of Getty Oil voted on January 3 to accept the Pennzoil deal. Accordingly, on January 4 both Getty Oil and Pennzoil issued press releases, announcing an agreement in principle on the terms of the Memorandum of Agreement but at the higher price.

Having learned of the impending sale of Getty Oil stock to Pennzoil, Texaco hurriedly called several in-house meetings, and hired an investment banker as well, to determine a feasible price range for acquiring Getty Oil. On January 5, Texaco decided on \$125 per share and authorized its officers to take any steps necessary to conclude a deal. Texaco met first with a lawyer for the Museum, then with Gordon Getty. Texaco stressed to Getty that if he hesitated in selling his shares, he might be "locked out" in a minority position. On January 6, the Getty Oil board of directors voted to withdraw from the Pennzoil deal and unanimously voted to accept the \$125-per-share Texaco offer. Pennzoil sued and won an award of \$7.53 billion in compensatory damages and \$3 billion in punitive damages based on tortious interference with a contract. Texaco appealed.

DECISION Judgment of trial court affirmed.

OPINION New York law requires knowledge by a defendant of the existence of contractual rights as an element of the tort of inducing breach of that contract. Since there was no direct evidence of Texaco's knowledge of a contract, the question is whether there was legally and factually sufficient circumstantial evidence from which the knowledge

could be inferred. Among the evidence were (1) Texaco's carefully mapped strategy to defeat Pennzoil's deal; (2) the notice of a contract in a January 5 *Wall Street Journal* article, although Texaco claimed that no one at Texaco had seen it; (3) the knowledge of an agreement that would arise from comparing the Memorandum of Agreement with the Getty press release; and (4) demands made by the Museum and Trust for full indemnity by Texaco against any claims by Pennzoil based on the Memorandum of Agreement. Clearly, the inference by the jury that Texaco had knowledge of contractual relations between Pennzoil and Gordon Getty and the Museum is supported by the evidence.

Another necessary element is a showing that the defendant took an active part in persuading a party to a contract to breach it. Merely entering into a contract with a party with the knowledge of that party's contractual obligations to someone else is not the same as inducing a breach. For tort liability to arise, it is necessary that there be some act of interference or of persuading a party to breach, such as by offering better terms or other incentives. The evidence shows that Texaco knew it had only twenty-four hours to "stop the Pennzoil train." Furthermore, the evidence also shows that Texaco's strategy included pressure on Gordon Getty, as well as on key people at the Museum. This evidence contradicts the contention that Texaco passively accepted a deal proposed by the other parties.

INTERPRETATION The tort of interference with contractual relations protects a party to a contract from a third party who intentionally and improperly induces the other contracting party not to perform the contract.

ETHICAL QUESTION Did Getty or Texaco act unethically? Explain.

CRITICAL THINKING QUESTION Does the protection afforded by this tort conflict with society's interest in free competition? Explain.