



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



Specialty Companies Group et al v. Meritage Homes CV-20-0086-PR

PARTIES:

Petitioner: Meritage Homes of Arizona, Inc.

Respondent: Specialty Companies Group, LLC, et al. (“Specialty”)

FACTS:

In 2004, Meritage and Hacienda Builders formed a limited liability company, Maricopa Lakes, LLC, to develop the Rancho El Dorado Project (the “Project”), a residential community in Maricopa, Arizona. Maricopa Lakes obtained loans from Wachovia Bank and acquired land to develop residential lots which were then to be transferred to Meritage and Hacienda Builders to sell. Maricopa Lakes had no employees; its business was managed by the principals and employees of Meritage.

Maricopa Lakes hired G&K South Forty Development (“G&K”) to manage the Project. Specialty performed services at the Project in 2007 and submitted invoices to G&K totaling over \$150,000.

In 2007, Hacienda Builders experienced financial difficulties and informed Meritage that it was abandoning the Project. Meritage attempted to renegotiate the Maricopa Lakes’ loan with Wachovia, but was unsuccessful. In February 2008, Wachovia issued a notice of trustee’s sale for the land underlying the Project.

In April 2009, Specialty filed suit against G&K for payment of its outstanding invoices. G&K filed a third-party complaint against Maricopa Lakes, arguing that it had breached the parties’ contract by failing to indemnify and defend G&K against Specialty’s claims. In November 2009, Maricopa Lakes was dissolved by the Corporation Commission for failing to have a statutory agent. In November 2011, G&K obtained a default judgment against Maricopa Lakes for \$234,943.44 on its breach of contract claims (the “Lakes Judgment”).

Specialty and G&K eventually settled their dispute and Specialty obtained a judgment against G&K in the amount of \$234,943.44. Specialty agreed not to execute on its judgment against G&K and in exchange G&K assigned to Specialty all of G&K’s claims against Maricopa Lakes, including the right to enforce and collect on the Lakes Judgment against Maricopa Lakes and its principals.

In 2015, Specialty sued Meritage, Hacienda Builders, and their principals; it did not name Maricopa Lakes as a defendant. In August 2017, Specialty filed an amended complaint containing a single count for “Action on a Judgment/Alter Ego Liability as to All Defendants.”

In September 2017, Meritage moved for summary judgment arguing that the statute of limitations had run on Specialty’s claims and Specialty’s claim for alter ego liability (also referred to as a claim for piercing the corporate veil) was barred by the six-year statute of limitations for contract actions under A.R.S. § 12-548(A)(1). In response, Specialty argued that the applicable limitations period for an action on a judgment involving an alter ego claim was the five-year term provided for in A.R.S. § 12-1551(A).¹ The trial court agreed with Meritage and held that Specialty’s lawsuit was time-barred by the six-year statute of limitations for contract actions. Specialty appealed.

The court of appeals noted that an alter ego claim “is governed by a two-part test” which requires a showing of “a unity of control, which can be established by showing the parent corporation exercised substantially total control over the management and activities of the subsidiary,” together with a showing that “under the circumstances of each case that observance of the corporate form would sanction a fraud or promote injustice.” *Specialty Companies Group LLC v. Meritage Homes of Ariz. Inc.*, 248 Ariz. 434, 439 ¶ 9 (App. 2020). The court noted that no Arizona authority expressly addressed the issue, but stated that the principles of alter-ego liability “illustrate that an alter-ego claim is not a separate cause of action, but a means of imposing liability on an underlying cause of action such as a tort or breach of contract.” *Id.* ¶ 10 (internal quotation marks omitted).

According to the court of appeals:

a claim seeking to impose alter-ego liability on a party by piercing the corporate veil is not a stand-alone cause of action. And because an alter-ego claim is not a cause of action, it naturally follows that an alter-ego claim is not governed by a particular statute of limitations or an independent rule of accrual. Instead, a party seeking to pierce the corporate veil under an alter-ego theory is bound by the limitation period applicable to the cause of action to which the alter-ego claim is tied.

Id. ¶ 12. Here, the court of appeals found that Specialty’s suit was not an action on the contract between Maricopa Lakes and G&K, but rather “an action on a judgment.” *Id.* at 440 ¶ 13.

And the court of appeals found that cases from other jurisdictions “provide strong support not only for the principle that it is appropriate to raise an alter-ego claim in an action on a judgment, but also that such actions are governed by the limitation period applied to an action on a judgment.” *Id.* at 441 ¶ 21. The court of appeals concluded:

Because Specialty’s action—including the alter-ego claim interwoven within it—was an action on a judgment, it is subject to the then-five-year limitation period for an action on a judgment. A.R.S. § 12-1551(A); A.R.S. § 12-1611. Because one cannot bring an action on a judgment without an underlying judgment, we also conclude Specialty’s claim accrued when the court entered the Lakes Judgment—

¹ Section 12-1551 was amended in 2019 to provide for a ten year period for each “action” or “renewal” of the underlying judgment. A.R.S. § 12-1551(A). The amendment does not impact the time frames in this case.

on or about November 28, 2011. Because G&K could bring an action from the date of that judgment, and Specialty steps into the shoes of G&K, Specialty's original complaint, filed on January 22, 2015, was timely.

Id. at 443 ¶ 27 (citations omitted). Thus, the court of appeals reversed the trial court's finding that Specialty's lawsuit was time-barred.

ISSUE:

Is a claim to pierce the corporate veil subject to a statute of limitations, or can the plaintiff file suit any time, as long as a default judgment against the defunct entity continues to be renewed?

STATUTES:

In relevant part, Arizona Revised Statute § 12-548(A) provides:

An action for debt shall be commenced and prosecuted within six years after the cause of action accrues, and not afterward, if the indebtedness is evidenced by or founded on . . . [a] contract in writing that is executed in this state.

Arizona Revised Statute § 12-1551(A) provides:

The party in whose favor a judgment is given, at any time within ten years after entry of the judgment and within ten years after any renewal of the judgment either by affidavit or by an action brought on it, may have a writ of execution or other process issued for its enforcement.

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