Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-154

AUGUST TERM, 2003

Peter D. Moss and Homeowners Similarly Affected	}	APPEALED FROM:
v.	}	Franklin Superior Court
Ronald and Deborah Perras, d/b/a Perras & Sons, Inc., Nationwide Insurance Company and Agents, Halter, Bachman, Brady, Esq., and Mullen Insurance Agency	}	DOCKET NO. S33-03Fc Trial Judge: Dennis R. Pearson

In the above-entitled cause, the Clerk will enter:

Plaintiff Peter D. Moss appeals pro se from an order dismissing his claim under V.R.C.P. 12(b)(6) against defendants Nationwide Insurance Company, Patricia R. Hatler, Greg Bachman, Timothy Patrick Brady, the Mullen Insurance Agency, Kylie Mullen and Robin Blouin. We affirm.

Plaintiff and his wife live in a Fairfax, Vermont community known as Buckhollow Heights, which was developed by defendants Ronald and Deborah Perras, d/b/a Perras & Sons, Inc. The development has a homeowners association and the Perrases serve as the association= s officers. Residents of the subdivision pay dues to the association.

Plaintiff has accused the Perrases of violating the association= s covenants concerning road repairs and liability insurance. Regarding the insurance issue, plaintiff claims the Perrases must purchase liability insurance for the association, but that they purchased a policy for their construction business instead using association funds. Plaintiff has accused the Perrases of converting association dues for their own purposes and has filed suit against them. In his suit, plaintiff also named as defendants Nationwide Insurance Company, Patricia R. Hatler, Greg Bachman, Timothy Patrick Brady (collectively referred to hereinafter as the A Nationwide defendants@), the Mullen Insurance Agency, Kylie Mullen and Robin Blouin (collectively referred to hereinafter as the A Mullen Agency defendants@) alleging the following:

> 3. With the same brazen contempt for their customers= rights shown in trying to tax the homeowners for road repairs necessitated by the Perrases, the said Perrases have been assessing homeowners for a Nationwide Mutual business insurance policy premium covering solely the Perrases= construction business but offering no benefit to any of the homeowners. The Nationwide Mutual attorneys and the Mullen Agency insurance agents named as defendants herein, have conspired with the Perrases to cover for this unjust enrichment by depriving the Plaintiff of a certified copy of the said policy, in spite of demands addressed to each of these defendants.

The Nationwide and Mullen Agency defendants moved for dismissal under V.R.C.P. 12(b)(6) for failure to state a claim upon which relief can be granted. The Nationwide and Mullen defendants argued that they had no duty to give plaintiff a copy of the association= s insurance policy because plaintiff is not a named insured on the policy. Therefore, plaintiff was not entitled to judicial relief for their refusal to give him a copy of the policy. The superior court agreed, granted the motion to dismiss, and entered a final partial judgment disposing of plaintiff= s claims against the Nationwide and Mullen Agency defendants only. This appeal followed.

In his brief and through other filings with this Court, plaintiff has attempted to raise a number of issues not encompassed in the superior court= s order on appeal. By order of April 30, 2003, the full Court dismissed plaintiff= s appeal insofar as it purported to raise matters not at issue in the court= s decision to dismiss the Nationwide and Mullen Agency defendants. Justice Dooley further clarified the scope of the appeal before us in an order dated June 11, 2003. As he explained, the sole issue on appeal is whether the superior court erred in dismissing the action as to the Nationwide and Mullen Agency defendants. It is that issue to which we now turn.

When reviewing an order dismissing a claim under V.R.C.P. 12(b)(6), we assume the truth of all the facts alleged in the complaint and all of the reasonable factual inferences that may be derived from those facts. Richards v. Town of Norwich, 169 Vt. 44, 48-49 (1999). If it is beyond doubt that those facts and inferences do not amount to a legal claim susceptible to judicial relief, the court may grant the motion to dismiss. Id. at 48. In other words, the court assumes the factual allegations are true, but it does not assume those facts require judicial intervention absent a showing that the law can redress whatever harm the plaintiff alleges.

In this case, plaintiff= s complaint alleged that the Nationwide and Mullen Agency defendants helped cover up the allegedly unlawful conduct of the Perrases by denying him a copy of the homeowners association= s insurance policy. Plaintiff was not a named insured on the policy, however, and he fails to identify any requirement under state or federal statutory law or the common law obligating any of the dismissed defendants to supply him with a copy of the policy. Plaintiff has likewise failed to demonstrate that the Nationwide and Mullen Agency defendants had a statutory or common law duty to ensure that the Perrases fulfilled their obligation under the homeowners association covenant to purchase a liability policy for the association. To the extent that the Perrases did not purchase the insurance plaintiff alleges they are required to purchase for the association, his grievance is with them, not with the Nationwide or Mullen Agency defendants. The trial court thus properly dismissed the complaint against those defendants and its order must be affirmed.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice