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2013 IL App (3d) 120579-U

Order filed June 7, 2013

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2013

CLASSIC HARDWARE, INC., and Will	)	Appeal from the Circuit Court
County Public Building Commission for the	)	of the 12th Judicial Circuit,
Use and Benefit of Classic Hardware, Inc.,	)	Will County, Illinois,
Harbour Contractors, Inc./Gilbane Company,	)	
a Joint Venture and Will County Public	)	
Building Commission as Joint Obligees for	)	
the Use and Benefit of Classic Hardware, Inc.,	)	
	)	
Plaintiff-Appellee,	)	Appeal No. 3-12-0579
	)	Circuit No. 09-CH-4975
v.	)	
	)	
L.J. MORSE CONSTRUCTION COMPANY,	)	
and WILL COUNTY PUBLIC BUILDING	)	
COMMISSION and WESTERN SURETY	)	
COMPANY,	)	Honorable
	)	Barbara Petrunaro,
Defendants-Appellants.	)	Judge, Presiding.

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JUSTICE LYTTON delivered the judgment of the court.  
Justices McDade and Schmidt concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Where the plain language of the purchase order and bid specifications stated that the hardware contractor was required to furnish doors, frames and

hardware as specified, the trial court did not err in determining that the contract was unambiguous and only required the contractor to provide 340 cylinder locks.

¶ 2 Plaintiff, Classic Hardware, Inc. (Classic Hardware), brought an action to recover the balance due from defendant, L.J. Morse Construction Company (LJ Morse), and Western Surety Company for materials sold and delivered by Classic Hardware to LJ Morse for the Will County Adult Detention Facility expansion project. The trial court entered judgment in favor of Classic Hardware in the amount of \$37,225.70, plus interest. On appeal, LJ Morse claims that the trial court misinterpreted the terms of the purchase order and specifications when it determined that Classic Hardware was only required to furnish 340 cabinet locks. We affirm.

¶ 3 LJ Morse, a general contractor, was hired by the Will County Public Building Commission to build the Will County Adult Detention Facility. It contracted to purchase all the doors, frames and hardware for the project from Classic Hardware. During construction of the detention facility project, Classic Hardware ordered and furnished 340 cylinder locks for cabinets. However, the number of cabinets that required cylinder locks actually totaled 738. Classic Hardware claimed that cabinet cylinder locks in excess of 340 were extra. At the request of LJ Morse, it supplied 265 additional locks and sent a bill to LJ Morse for \$24,341 above the contract price. It did not receive payment and, as a result, it refused to supply the remaining 133 locks needed to complete the project.

¶ 4 LJ Morse submitted the extra claim to Will County for the shipment of 265 locks, which Classic Hardware supplied, and the additional shipment of 133 locks, which LJ Morse purchased from a third party supplier at a cost of \$10,773. Will County determined that the

contract required Classic Hardware to supply 738 locks and denied the claim that the locks in excess of 340 were extra.

¶ 5 Classic Hardware filed an accounting action in circuit court. At the bench trial, James Garbacz testified that he was a project manager for Classic Hardware at the time of the Will County project and that William Morrissey was the project manager for LJ Morse. LJ Morse was the successful bidder to be the "prime contractor" for the detention facility expansion project. LJ Morse was defined as the "Trade Contractor."

¶ 6 Garbacz testified that he dealt with Morrissey for five years and that Classic Hardware had about 20 jobs per year with LJ Morse. On all of the jobs, Classic Hardware only received the door schedule, the floor schedule and specifications for steel doors and hardware.

¶ 7 On October 25, 2006, Morrissey called Garbacz and asked him to submit a bid for the doors, frames and hardware for the project. Morrissey informed Garbacz that he had a bid from another supplier for \$430,000 and asked if Garbacz could match that price. Garbacz agreed to review the project documents and spent the weekend drafting a proposal. Based on the door schedule and hardware and door specifications, Garbacz submitted a bid for \$439,000.

¶ 8 LJ Morse accepted the proposal and drafted a purchase order agreement, which both parties signed. In the purchase order, Classic Hardware agreed to do the following:

"Perform all work as identified below in accordance with the project documents. Will County Adult Detention Facility Bid Release No. 4, drawings \*\*\* A4.6, A4.7, \*\*\* dated August 14th, 2006 and specifications dated August 14, 2006

prepared by Gilbane/Harbour. (Reference Attachment A & B).

Furnish Doors, Frames and Hardware as specified in the above referenced contract documents. As per specification requirements, all products indicated are to be used. Substitutes will not be accepted. For the amount of Four Hundred Thirty Nine Thousand Dollars and 00/100."

¶ 9 In addition to cabinet drawings A4.6 and A4.7, the purchase order listed 160 other drawings. A note printed on the bottom right-hand corner of drawings A4.6 and A4.7 stated: "TYPICAL NOTE: ALL DOORS AND DRAWERS TO RECEIVE LOCKS, REFER TO SPECIFICATION."

None of the drawings were attached to the purchase order.

¶ 10 Garbacz testified that in addition to the purchase order, he reviewed and relied on the project specifications prepared by the project manager, Gilbane/Harbour, and provided by LJ Morse. Section 1.2 of project hardware specification No. 08710, Door Hardware, provided:

"C. Products furnished, but not installed, under this Section include the following. Coordinating, purchasing, delivering, and scheduling remain requirements of this Section.

1. Lock cylinders for cabinets \*\*\* (see hardware set BH-0)"

Section 3.7 of the door hardware specification enumerated various hardware sets, including set BH-0:

"B. Door Hardware Set BH-0: Miscellaneous Items:

1. 12.0 EA Padlocks SAR

2. 12.0 EA Padlocks SAR
3. 340.0 EA Lock Cylinder SAR 4143 (cabinets)
4. 60.0 EA Lock Cylinder SAR (pull stations)
5. 35.0 EA Lock Cylinder SAR (fire extinguisher cabinets)
6. 3.0 EA Lock Cylinder SAR (flag poles)
7. 6.0 EA Lock Cylinder SAR (folding partitions)
8. 25.0 EA Cylinder Core SAR 6300
9. 25.0 EA Cut Keys SAR Keyed as directed"

¶ 11 Among other documents that applied to the detention facility project, LJ Morse and Gilbane/Harbour signed an general conditions agreement entitled "General Conditions for Trade Contractors under Construction Management Agreements." Section 2.2 of the agreement included the following discrepancy provision:

"Should the Plans or Specifications disagree in themselves or with each other, the Trade Contractor shall provide the better quality or greater quantity of work and/or materials unless otherwise directed by written addendum to the contract."

¶ 12 Joseph Giovenco, the owner of Classic Hardware, testified that he manages projects, reviews specifications and prepares bids for the company. He also drafts hardware specifications for architects. He testified that the kind of locks to be furnished for the detention facility project could not be determined from drawings A4.6 and A4.7.

¶ 13 Charles Michael Foley, a qualified expert on door, frame and hardware specifications, testified that he had 30 years of experience in the door and hardware industry. In his

experience, the term "Doors, Frames and Hardware" means the items specified in the door schedules and hardware and door specifications.

¶ 14 Foley further testified that in some cases there is a difference between a lock and a cylinder lock. He could not tell what type of lock was to be furnished for the cabinets from the specifications on the drawings. The drawings only noted that locks were to be furnished; the drawings did not state that cylinder locks were to be furnished.

¶ 15 Foley stated that hardware specification BH-0 provided that 340 cylinders locks were required for the cabinets. Except for the listing in BH-0, additional cylinder locks would not have been furnished by the hardware supplier. Foley explained that cylinder locks, or "casement" locks, are not normally considered "doors, frames and hardware." Normally, such items are in the millwork section, which is bid on by millwork contractors. He noted that the locks were included in Classic Hardware's bid only because they were specifically listed in BH-0. He testified that there was no reason for the hardware supplier to look outside the hardware specifications to determine the number of cylinder locks to order because hardware specification No. 08710 referred to a specific hardware set (BH-0), which listed the type of cabinet locks to use and the quantity needed.

¶ 16 The trial court found that the type of lock required by drawings A4.6 and A4.7 were not specified and that Classic Hardware would not have known how many cylinder locks to furnish unless it referred to hardware set BH-0. The court therefore concluded that Classic Hardware was contractually obligated to furnish 340 cylinder locks and that the additional 265 cylinder locks it supplied were extra. The court entered an order awarding Classic Hardware \$24,341 and denied LJ Morse's request for \$10,773 in backcharges for the cost of

the remaining locks.

¶ 17

## ANALYSIS

¶ 18

LJ Morse contends that the trial court erred in ruling that Classic Hardware was only required to supply 340 cylinder locks for the detention facility project. It argues that the contract clearly provided that Classic Hardware was obligated to provide locks on all doors and drawers as noted on drawings A4.6 and A4.7, and that Classic Hardware was required to provide the greater quantity if there was a disagreement in the plans and specifications.

¶ 19

An agreement signed by the parties speaks for itself, and the intention with which it was executed must be determined from the language used in the agreement. *Air Safety, Inc. v. Teachers Realty Corp.*, 185 Ill. 2d 457 (1999). The primary goal of contract interpretation is to give effect to the parties' intent by interpreting the contract as a whole and applying the plain and ordinary meaning to unambiguous terms. *Joyce v. DLA Piper Rudnick Gray Cary LLP*, 382 Ill. App. 3d 632 (2008). If the language of an agreement is facially unambiguous, then the trial court interprets the contract as a matter of law without the use of extrinsic evidence. *Duresa v. Commonwealth Edison Co.*, 348 Ill. App. 3d 90 (2004). However, if the court finds that the language of the contract is susceptible to more than one meaning, an ambiguity is present and parol evidence may be admitted to aid the trier of fact in resolving the ambiguity. *Air Safety, Inc.*, 185 Ill. 2d at 462-63.

¶ 20

Contract language is not ambiguous solely because parties disagree as to its meaning. *Law Offices of Colleen M. McLaughlin v. First Star Financial Corp.*, 2011 IL App (1st) 101849, ¶ 18. A court should consider only reasonable interpretations of the contract language and will not strain to find an ambiguity where none exists. *Lease Management*

*Equipment Corp. v. DFO Partnership*, 392 Ill. App. 3d 678 (2009). Whether language of an agreement is ambiguous and requires additional evidence for interpretation is a question of law subject to *de novo* review. *Schnuck Markets, Inc. v. Soffer*, 213 Ill. App. 3d 957 (1991); *DFO Partnership*, 392 Ill. App. 3d at 684.

¶ 21 Here, the language of the purchase order is unambiguous. The order, signed by both parties, states that Classic Hardware agreed to perform all work in accordance with the project documents and that it agreed to furnish "Doors, Frames and Hardware as specified." The term "specify" means to "mention or name in a specific or explicit manner: tell or state precisely or in detail." Webster's Third New International Dictionary 2187 (1981). In the hardware specifications for the detention facility project, the locks were named precisely and in detail in section 3.7B. In that specification, hardware set BH-0 lists the number of cylinder locks for cabinets. It expressly states: "340.0 EA Lock Cylinder SAR (cabinets)." Construing the language reasonably, it is unambiguously apparent that Classic Hardware bid on and agreed to supply 340 cylinder locks for the cabinets.

¶ 22 LJ Morse argues that the notations on drawings A4.6 and A4.7 create an ambiguity. We disagree. Although both cabinet drawings state that all doors and drawers are to receive locks, it does not specifically address the term "locks." See *Board of Trustees of University of Illinois v. Insurance Corp. of Ireland, Ltd.*, 750 F. Supp. 1375 (N.D. Ill. 1990) (use of general terms or failure to address a term does not necessarily render a contract ambiguous). The general statement on the drawings directs the bidding subcontractor to the specifications. The specifications identified 340 cylinder locks for the cabinets. Moreover, Foley testified that because specification HB-0 provided the exact number of cylinder locks to be furnished,

there would be no reason for a hardware supplier to review documents outside the hardware specifications. Thus, we find that the terms of the purchase order, interpreted together with the hardware specifications, are unambiguous. The agreement only required Classic Hardware to furnish 340 cylinder locks for the cabinets.

¶ 23 We also reject LJ Morse's argument that the terms of the purchase order should be read in conjunction with the general conditions agreement. Section 2.2 of the general conditions agreement, states: "Should plans disagree \*\*\* Trade Contractor shall provide the better quality or greater quantity of work." LJ Morse argues that such language contractually obligated Classic Hardware to supply 738 cylinder locks. The agreement defines LJ Morse as the "Trade Contractor." The agreement further states that "Trade Subcontractors" are to assume all obligations and responsibilities of the trade contractor. It defines trade subcontractors as "a person or entity who has a direct or indirect contract with a Trade Contractor to perform any of the Work at the site." In this case, Classic Hardware acted as a supplier; it was not the trade contractor for the project, and it did not complete any work at the site. Therefore, it is not a "Trade Contractor" or a "Trade Subcontractor" as defined in the general conditions agreement. Thus, the agreement does not impose any obligation on Classic Hardware to provide the greater quantity of cylinder locks. We affirm the trial court's order awarding Classic Hardware extra compensation for the 265 cylinder locks it delivered in addition to the 340 locks it supplied under the purchase order.

¶ 24

#### CONCLUSION

¶ 25

The judgment of the circuit court of Will County is affirmed.

¶ 26

Affirmed.