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JAMES P. PURCELL ASSOCIATES, INC. *v.* J. MARTIN
HENNESSEY ET AL.
(AC 27515)

Schaller, Lavine and McDonald, Js.

Argued May 30—officially released December 18, 2007

(Appeal from Superior Court, judicial district of
Hartford, Stengel, J.)

Steven W. Varney, for the appellant (plaintiff).

Patrick W. Boatman, with whom, on the brief, was
Jenna N. Sternberg, for the appellees (defendants).

Opinion

LAVINE, J. The plaintiff, James P. Purcell Associates, Inc., appeals from the judgment of the trial court rendered in favor of the individual defendant, J. Martin Hennessey.¹ On appeal, the plaintiff claims, in essence, that the court improperly failed to find that the individual defendant was unjustly enriched. We affirm the judgment of the trial court.

The individual defendant is a real estate developer, and the corporate defendant, The Hennessey Company, Inc., is a Connecticut corporation he formed in 1992. In December, 1998, the individual defendant, as manager of the corporate defendant, signed an agreement between the plaintiff and the corporate defendant. In January, 1999, the individual defendant signed, as the “G.P.” of the corporate defendant, an agreement between the plaintiff and the corporate defendant. The agreements called for the plaintiff to provide civil engineering services for the development of a senior housing project in Glastonbury. In April, 2004, the plaintiff commenced this action against the defendants, alleging that it had fully performed its obligations under the agreements and that the defendants had failed to make payment, despite a demand to do so.

In December, 2003, the individual defendant had commenced an action against SunAmerica Affordable Housing Partners, Inc. (SunAmerica), alleging breach of contract for the development of a housing project in Hartford and for the senior housing project in Glastonbury. The individual defendant alleged against SunAmerica, in part: “In reliance upon the agreement, [the individual defendant] incurred significant development expense in preparing to acquire the property and commence construction thereon.” The action against SunAmerica was settled prior to trial.

At trial in the present action, the plaintiff sought to use the individual defendant’s² allegation in the SunAmerica complaint as an admission by the individual defendant that he is the party that benefited from the plaintiff’s services. The plaintiff sought to use that admission to obtain a judgment against the individual defendant under the doctrine of unjust enrichment. The plaintiff seems to imply that the individual defendant took action in the name of the corporate defendant or in his name individually depending on the better situation for him personally.³

Although the plaintiff was required to prove other facts to prevail on a claim of unjust enrichment, the resolution of this appeal turns on the question of which entity entered into the contract with SunAmerica for the development of the Glastonbury and Hartford projects—the individual defendant or the corporate defendant. Our review of the record discloses, however, that the plaintiff failed to place the SunAmerica contract

into evidence or to offer other proof of it at trial. The court concluded that “[w]hat was said in the other lawsuit that was referenced . . . could have been filed for different purposes, for different considerations, as far as what was acknowledged in there”

“A right of recovery under the doctrine of unjust enrichment is essentially equitable, its basis being that in a given situation it is contrary to equity and good conscience for one to retain a benefit which has come to him at the expense of another. . . . Unjust enrichment is, consistent with the principles of equity, a broad and flexible remedy. . . . Plaintiffs seeking recovery for unjust enrichment must prove (1) that the defendants were benefited, (2) that the defendants unjustly did not pay the plaintiffs for the benefits, and (3) that the failure of payment was to the plaintiffs’ detriment. . . .

“Furthermore, the determination of whether a particular failure to pay was unjust and whether the defendant was benefited are essentially factual findings for the trial court that are subject only to a limited scope of review on appeal. . . . Those findings must stand, therefore, unless they are clearly erroneous or involve an abuse of discretion.” (Internal quotation marks omitted.) *Jo-Ann Stores, Inc. v. Property Operating Co., LLC*, 91 Conn. App. 179, 194, 880 A.2d 945 (2005).

By not introducing the SunAmerica contract into evidence, the plaintiff failed to offer sufficient evidence to prove that the individual defendant had alleged that he had incurred expenses individually as the result of a contract entered into by the corporate defendant. The plaintiff, therefore, cannot prevail on its claim that the trial court was required to find that the individual defendant’s prior pleadings were an admission that the corporation’s expenses and benefits were attributable to him individually.

The judgment is affirmed.

In this opinion SCHALLER, J., concurred.

¹ The corporate defendant, The Hennessey Company, Inc., stipulated to a judgment against it in the amount of \$95,234.29.

² See *Perreira v. Pringle*, 255 Conn. 330, 346, 766 A.2d 400 (2001); *Tough v. Ives*, 162 Conn. 274, 283, 294 A.2d 67 (1972) (complaint from companion case “admissible as an admission because it is a statement [made] by a party in a prior action to which he was also a party”).

³ The plaintiff did not allege that the corporate veil should be pierced to reach the individual defendant.