

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4649
Summary Calendar

BUEL B. MEREDITH and
JANICE MEREDITH,

Plaintiffs-Appellants,

versus

CHEVRON U.S.A. INC., ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for
the Western District of Louisiana
(CA 91 0162)

(November 27, 1992)

Before REAVLEY, JONES and EMILIO M. GARZA, Circuit Judges.

REAVLEY, Circuit Judge:¹

Buel B. Meredith and Janice Meredith (the Merediths) sued Chevron U.S.A. Inc. to recover damages for injuries Buel sustained while on a Chevron drilling platform. The district court entered a summary judgment in favor of Chevron. We affirm.

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

I. BACKGROUND

In 1990, Chevron hired Sundowner Offshore Services, Inc. (Sundowner), a workover independent contractor, to perform workover services on one of Chevron's drilling platforms. Sundowner agreed to install a workover rig on the Chevron platform. To facilitate its construction of the rig, Sundowner built an elevated pipe rack structure and welded it to the main deck of the platform. Chevron and Sundowner intended the structure to remain on the Chevron platform after Sundowner finished its workover operations, but the structure was designed so that it could be moved to another deck or to another platform.

Sundowner connected a portable crane, which it owned, to the pipe rack structure, and used the crane to construct the workover rig. Sundowner employees used 14 or 15 bolts to fasten the crane base to the pipe rack structure, but the bolts were too small.

On October 21, 1990, while Sundowner was constructing the workover rig, the crane base separated from the pipe rack structure and the crane toppled from its base, injuring Buel Meredith. The Merediths claimed that Chevron was liable under La. Civ. Code arts. 2315, 2317, and 2322. The district court granted Chevron's motion for summary judgment and dismissed the Merediths' action.

II. DISCUSSION

On appeal, the Merediths only contend that the court erred in dismissing their art. 2322 strict liability claim. Article 2322 provides that "[t]he owner of a building is answerable for

the damage occasioned by its ruin, when this is caused by neglect to repair it, or when it is the result of a vice in its original construction." To establish Chevron's strict liability under art. 2322, the Merediths must show that (1) there was a building, (2) Chevron owned the building, and (3) there was a "ruin" caused by a vice in the construction or a neglect to repair the building. *Olsen v. Shell Oil Co.*, 365 So. 2d 1285, 1289 (La. 1979). The term "building" includes all appurtenances of the structure. *Id.* at 1291.

Chevron's drilling platform is a building for purposes of art. 2322. *Id.* at 1290. The issue here is whether the crane was an appurtenance of Chevron's platform.

In determining whether the crane was an appurtenance, we consider (1) how securely the crane was attached to the building and (2) the degree of permanence intended for the crane. *Seneca v. Phillips Petroleum Co.*, 963 F.2d 762, 767 (5th Cir. 1992).

The Sundowner crane was bolted to the pipe rack structure; so to move the crane, Sundowner only had to unbolt the crane, not cut loose welds. The crane was designed for temporary use on the platform. *Compare Moczygemba v. Danos & Curole Marine Contractors Inc.*, 561 F.2d 1149, 1151 (5th Cir. 1977) (noting that "[t]he crane in the case on appeal was welded to the deck of the platform and was used in ongoing operations"). Neither Chevron nor Sundowner intended the crane to be a permanent part or integral part of the Chevron platform. *See Seneca*, 963 F.2d at 767. Sundowner brought its crane to the platform to aid in

the construction of the workover rig, and after completing the workover rig, Sundowner removed the crane.

In a case factually similar to this one, the Louisiana First Circuit Court of Appeals held that a construction crane that was bolted to two structural beams was not an appurtenance of the structure. *Willis v. Cajun Elec. Power Coop., Inc.*, 484 So. 2d 726, 732 (La. Ct. App. 1st Cir.), writ denied, 488 So. 2d 200 (La. 1986). The court reasoned that the crane "was not intended to be permanently attached to the building or become an integral part thereof." *Id.* Like the instant case, "the crane was only temporarily attached ... for construction purposes." *Id.*

We recognize that the pipe rack structure, to which the crane was bolted, was welded to the Chevron platform. However, even if we consider the pipe rack structure to be an appurtenance of the Chevron platform, we believe that the crane, which caused Buel Meredith's injuries, was still not an appurtenance of the platform or an appurtenance of the pipe rack structure. *See id.*

We conclude that, as a matter of law, the crane was not an appurtenance of Chevron's "building," and therefore, Chevron is not strictly liable under La. Civ. Code Ann. art. 2322.²

AFFIRMED.

² The district court dismissed the Merediths' art. 2322 claim on other grounds. In reviewing a grant of summary judgment, we are not bound to the grounds articulated by the district court, but may affirm the judgment on other appropriate grounds. *Hanchey v. Energas Co.*, 925 F.2d 96, 97 (5th Cir. 1990).