IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

SECURITY FIRST INSURANCE COMPANY,

Appellant,

v.

Case No. 5D20-2528
LT Case No. 2018-CA-012158-O

LYDIA VAZQUEZ AND SANTOS VAZQUEZ,

Appellees.

_____/

Opinion filed February 18, 2022

Appeal from the Circuit Court
for Orange County,
Patricia Strowbridge, Judge.

Angela C. Flowers, of Kubicki Draper,
Ocala, for Appellant.

Mark A. Nation, of The Nation Law
Firm, LLP, Longwood, for Appellees.

EVANDER, J.

In this insurance coverage dispute, Security First Insurance Company ("Security First") appeals a final summary judgment entered in favor of Lydia

and Santos Vazquez ("the Vazquezes"). We conclude that the $10,000 limit of liability provision contained in the policy's Limited Water Damage Endorsement ("LWD Endorsement") did not preclude the Vazquezes from recovering additional monies for "tear-out" costs. Accordingly, we affirm.

The parties agree to the basic facts. Security First insured the Vazquezes' dwelling pursuant to a homeowner's insurance policy. The dwelling incurred physical damage from the discharge or overflow of water from the plumbing system. Specifically, the home "sustained a covered loss due to water damage caused in whole or part by water that escaped as a result of a failed cast iron sanitary plumbing system in the dwelling." The failure of the cast iron pipes was caused by wear and tear, deterioration, and corrosion.

Security First acknowledged coverage for the water damage and paid $10,000 under the LWD Endorsement. That endorsement states:

> For an additional premium, the policy is endorsed to provide the following:
>
> Sudden and accidental direct physical loss to covered property by discharge or overflow of water or steam from within a plumbing . . . system . . . .
>
> LIMIT OF LIABILITY:
>
> The limit of liability for all damage to covered property provided by this endorsement is $10,000 per loss. This coverage does not

> increase the limit of liability that applies to the damaged covered property.
>
> All other provisions of your policy apply.

The Vazquezes' suit claimed they were owed additional monies for the cost to tear out and replace a part of the concrete slab—an action necessary to gain access to the corroded pipes. The parties stipulated that the tear-out costs would be $40,000. The Vazquezes' tear-out costs claim is based on language in the main policy, providing that where covered perils:

> cause water damage not otherwise excluded, from a plumbing system . . . , we cover loss caused by the water including the cost of tearing out and replacing any part of a building necessary to repair the system . . . . We do not cover loss to the system . . . from which this water escaped.

In addition to agreeing on the basic facts, the parties also agree on certain coverage matters. First, the parties agree that because of certain exclusion provisions, the Vazquezes' claimed losses would not be recoverable but for their procurement of the LWD Endorsement. Second, the parties agree that the LWD Endorsement provides coverage for both water damage to covered property and tear-out costs. Third, the parties agree that the cost to repair and/or replace the corroded pipes is not covered.

However, the parties disagree over the proper interpretation of the limitation of liability provision contained in the LWD Endorsement. Security First argues that the $10,000 limit applies to both water damage and tear-out

costs. The Vazquezes contend that the $10,000 limit applies only to water damage to covered property.

After hearing argument on the parties' cross-motions for summary judgment, the trial court ruled in favor of the Vazquezes. A final judgment for $40,000 was subsequently entered against Security First, and this appeal followed.

The interpretation of an insurance policy is a question of law reviewed de novo. *Principal Life Ins. Co. v. Halstead, as Tr. of Rebecca D. McIntosh Revocable Living Tr.*, 310 So. 3d 500, 502 (Fla. 5th DCA 2020). The guiding principal for insurance policy interpretation is that the policy must be read as a whole, affording words their plain meaning as bargained for by the parties. *See* § 627.419(1), Fla. Stat. (2016) (requiring every insurance contract "be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any application therefor or any rider or endorsement thereto"); *see also Auto-Owners Ins. Co. v. Anderson,* 756 So. 2d 29, 34 (Fla. 2000) ("Florida law provides that insurance contracts are construed in accordance with the plain language of the policies as bargained for by the parties.").

If the relevant policy language is susceptible to more than one reasonable interpretation, one providing coverage and the other limiting

coverage, the insurance policy is considered ambiguous. *Auto-Owners Ins. Co.,* 756 So. 2d at 34. Ambiguous policy provisions are interpreted in favor of the insured. *Id*.

A plain reading of the limit of liability provision contained in the LWD Endorsement arguably supports the Vazquezes' argument. The provision recites that: "[t]he limit of liability for *all damage to covered property* provided by this endorsement is $10,000 per loss." (emphasis added). Here, it is undisputed that the part of the concrete slab that needs to be removed was not damaged by the discharge or overflow of water.

Furthermore, in the Perils Insured Against section of the main policy, tear-out costs are not included in the definition of water damage. Rather, tear-out costs are referenced as an item that can be covered as part of a loss. Security First argues that under the policy, a water damage *loss* necessarily includes the tear-out costs. While that may be so, the limitation of liability provision did not use the term "water damage loss," rather it uses the term "damage to covered property."

We further observe that even if a water damage loss includes both water damage to covered property and tear-out costs, there would be no requirement to place both types of losses under a single liability sublimit. Homeowner's policies frequently place different liability sublimits for different

types of losses. Here, the LWD Endorsement expressly sets forth a sublimit for damage to covered property but is silent as to any sublimit for tear-out costs.

Of course, Security First could have expressly recited the tear-out costs were subject to the $10,000 limit of liability contained in the LWD Endorsement. Indeed, the Limited Fungi, Mold, Wet or Dry Rot, or Bacteria Coverage Endorsement ("Mold Endorsement") to the Vazquezes' homeowner's policy contains such language:

> a. We will pay up to the amount stated in the Declarations for Limit of Liability for "fungi" Coverage for:
>
> 1) The total of all loss payable under Coverages caused by or resulting directly or indirectly from "fungi", mold, wet or dry rot, or bacteria;
>
> 2) The cost to remove "fungi", mold, wet or dry rot, or bacteria from property covered under Coverages;
>
> 3) The cost to tear out and replace any part of the building or other covered property as needed to gain access to the "fungi", mold, wet or dry rot, or bacteria; and . . .

In essence, Security First is asking this Court to insert the type of language used in the Mold Endorsement into the LWD Endorsement, so as to make tear-out costs subject to the LWD Endorsement's limit of liability provision.

We acknowledge that the limit of liability provision could reasonably be interpreted to apply to both water damage and tear-out costs. After all, it can be reasonably argued that "damage to covered property" would include tear-out costs because the floor slab would clearly be damaged when it was torn out to gain access to the corroded pipes. However, the Vazquezes' interpretation, based on the policy's structure and definitions, is also reasonable. Because the limit of liability provision in the LWD Endorsement can reasonably be interpreted in each party's favor, and because the ambiguity was created by Security First, we affirm the final summary judgment entered below.

AFFIRMED.

NARDELLA and WOZNIAK, JJ., concur.