

4.10 BILATERAL CONTRACTS

B. THIRD PARTY BENEFICIARY (Approved 5/98)

Ordinarily a person may not sue for breach of a contract unless the person is a party to the contract. However, persons may enter into a contract for the benefit of others. But, a person not a party to a contract may not sue to enforce it merely because he/she happens to be incidentally benefited by it. Rather, it must appear that the contract was made by the parties with the intention to benefit the plaintiff and provide him/her with enforceable rights. Thus, to establish that plaintiff is entitled to enforce this contract, the plaintiff must prove that the original parties to the contract intended the plaintiff to receive a direct benefit from the contract.

If that intent did not exist, then the plaintiff cannot sue the defendant. It is not necessary that an intended beneficiary be specifically identified in the contract. But if the contract does not specifically identify the plaintiff, it is necessary to examine the pertinent provisions of the contract and the surrounding circumstances to find whether the parties intended the plaintiff to receive a direct benefit from the contract.

Cases:

Brooklawn v. Brooklawn Housing Corp., 124 N.J.L. 73 (E. & A. 1940); *Broadway Maintenance Corp. v. Rutgers*, 90 N.J. 253 (1982); *Wormann v. Aratusa Ltd.*, 266 N.J. Super 471 (App. Div. 1993).