

2013 IL App (2d) 111033-U
No. 2-11-1033
Order filed January 8, 2013

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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

DAVID RODRIGUEZ, ALBERTO ALCALA,)	Appeal from the Circuit Court
ENRIQUE ALCALA, MARIA ALCALA,)	of Du Page County.
MONA AVALOS, JORGE BANDA, OLGA)	
CAMACHO, CINDY BITBAO, ISMAEL)	
BONILLA, JOSE BONILLA, WILLIBALDO)	
CALDERON, PATRICIA CALDERON,)	
DANIEL CARLOS, CAROL CHRISTOPHE,)	
IGNACIO DELGADO, BERNARDINO)	
ESTRADA, ALEJANDRO FLORES,)	
MARIA LUISA FLORES, FERNANDO)	
FLORES, ESPERANZA FLORES, MANUEL)	
FLORES, NORMA FLORES, GABRIEL)	
GARCIA, MARIA GARCIA, PATRICIA)	
GARZA, JORGE HERRERA, KATHLEEN)	
HUDEC, RUBEN LOMELI, RICARDO)	
MARQUEZ, RAUL MASSO, ANDREA)	
PEREZ, WILMER METOYER JR.,)	
CINDY METOYER, JUDY METOYER,)	
GLENN METOYER, CARLOS LOPEZ)	
OLVERA, BENJAMIN PADILLA,)	
ABRAHAM PINEDA, JUAN RAMIREZ,)	
MARIA RAMIREZ, CARLOS RODRIGUEZ,)	
CESAR SALAZAR, JULIO SALAZAR,)	
GUILLERMO SALGADO, SOCORRO)	
QUIROZ, VICTOR SALGADO,)	
EVA SALGADO, MIGUEL SANCHEZ,)	
JOSE SORIANO, and MARTHA)	
COLIN-SORIANO,)	
)	
)	
Plaintiffs-Appellants,)	

)	
v.)	No. 10-L-0115
)	
RAUL MARRERO, ERICA ARIAS,)	
ADRIENNE BERNARDI, ANTHONY)	
BROWN, JUAN CAHUE, IRMA)	
CAMPANZANO, SERAFIN CHAVEZ,)	
ADRIAN GUTIERREZ, ELEANOR KING,)	
KRIS KEHLER, LILLIAN MENDOZA,)	
DONALD MILLER, ELISEO RAMOS JR.,)	
JORGE SERRET, ROD SIMON, and)	
IGNACIO VILLASENOR,)	
)	
Defendants)	
)	
(MB Financial Bank, N.A., Jose Torres,)	Honorable
Peter Ramirez, and Alan Weel, Defendants-)	Hollis Webster,
Appellees.))	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Jorgensen and Schostok concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly dismissed plaintiffs’ complaint pursuant to section 2-615 of the Code. Plaintiffs failed to plead their causes of action with specificity, failed to attach relevant documents to their complaint, and failed to plead facts establishing a duty on the part of defendants.

¶ 2 In January 2010, plaintiffs, David Rodriguez, Victor Salgado, Fernando Flores, Guillermo Salgado, and Socorro Quiroz filed a complaint against defendant, Raul Marrero, alleging fraud and violations of the Illinois Securities Act (815 ILCS 5/12 (West 2010)). The trial court later granted plaintiffs leave to amend their complaint and to include more plaintiffs and defendants in their suit. In May 2010, the trial court entered a default judgment against Marrero for \$348,981.46, less costs of attorney fees and translation.

¶ 3 Defendants, MB Financial Bank, N.A., Jose Torres, Peter Ramirez, and Alan Weel, are the only parties to this appeal. We affirm.

¶ 4 As amended, plaintiffs' complaint alleged they had all purchased securities from Reeden Capital Group, which was operated by Marrero. Reeden Capital was one of the companies associated with an alleged Ponzi scheme under federal investigation. Count I was directed at MB Financial and its officer, Alan Weel, and alleged the negligent performance of anti-money laundering and "Know Your Customer" duties. Count II was directed at MB Financial and Weel and alleged a breach of fiduciary duties owed to plaintiffs. Count III was directed at MB Financial and alleged a breach of contract to plaintiffs as third-party beneficiaries of the contract creating a depository relationship between MB Financial and Reeden Capital and other companies. Count IV alleged a breach of the Uniform Commercial Code (the UCC) covenant of good faith and fair dealing. Count V was directed at Peter Ramirez and alleged that he was liable under the Illinois Securities Law of 1953. Count VI was directed at Jose Torres and alleged that he was liable under the Illinois Securities Law of 1953. Counts VII and VIII are not at issue in this appeal. Count IX alleged a cause of action for conversion. Count X was directed against Marrero, Peter Ramirez, Jose Torres, Juan Cahue, Adrienne Bernardi, Anthony Brown, Eliseo Ramos, Jr., Jorge Serret, Rod Simon, and Ignacio Villasenor, and alleged a breach of contract.

¶ 5 On August 9, 2011, defendant Peter Ramirez filed a motion to dismiss pursuant to section 2-615 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-615 (West 2010)). Ramirez sought to dismiss counts V, IX, and X based on plaintiffs' failure to plead the necessary elements of any of the causes of action against him. With respect to count V, Ramirez argued that plaintiffs failed to plead any facts that he participated or aided in selling fraudulent securities, and therefore, he cannot

be held liable under the Illinois Securities Law. Ramirez further argued that, even though he was chairman of the board of Reeden Capital, Inc., plaintiffs failed to allege facts establishing that he showed assent, approval, or concurrence in the sale of any securities by Reeden Capital or by Marrero, and therefore, he could not be held individually liable. With respect to count IX (conversion), Ramirez argued that plaintiffs failed to allege facts to establish that he had exercised control over any identifiable sum of money belonging to plaintiffs. With respect to count X (breach of contract), Ramirez argued that plaintiffs failed to identify, reference, or attach any contract between them, and he argued that plaintiffs failed to identify the conditions that they performed on the purported contract. Ramirez also argued that plaintiffs failed to allege facts to demonstrate a unity of interest between him and Reeden Capital. Ramirez further argued that plaintiffs' failed to state a claim under federal securities laws and failed to allege facts establishing that he controlled anything with respect to Reeden Capital or Marrero. Last, Ramirez argued that plaintiffs failed to state a claim for violations of the Illinois Consumer Fraud and Deceptive Business Practices Act. Specifically, Ramirez accused plaintiffs of attributing all of the conduct to all of the defendants and making no effort to disaggregate the defendants. As a defendant, Ramirez asserts that plaintiffs have failed to allege the specific conduct he was alleged to have done that would subject him to liability.

¶ 6 On August 12, 2011, defendant Torres filed a section 2-615 motion to dismiss. Plaintiffs had cited Torres in count VI (Illinois Securities Law); count IX (conversion); and count X (breach of contract). With respect to count VI, Torres argued that plaintiffs' attachments reflected that he was listed as the marketing and media director and assisted with a radio advertisement; however, plaintiffs' allegations failed to state that he had aided or participated in any of sales of securities. With respect to count IX, Torres argued that plaintiffs could not state a cause of action for

conversion because they failed to show how the indeterminate funds qualified as conversion and they failed to allege any facts to establish that he exercised any control over any of the funds. With respect to count X, Torres argued that plaintiffs failed to present any evidence that a contract between them existed or that there was any unity of interest between him and Reeden Capital.

¶ 7 On August 15, 2011, defendant MB Financial filed its motion to dismiss pursuant to section 2-615 of the Code (735 ILCS 5/2-615 (West 2010)). Counts I through IV were directed at MB Financial. With respect to count I (common-law negligence based on negligent performance of federal statutes), MB Financial argued that the Bank Secrecy Act did not provide plaintiffs with a private cause of action; plaintiffs failed to establish a common-law duty owed to them by MB Financial; and plaintiffs failed to establish that any type of contract existed between them and MB Financial. MB Financial also argued that the *Moorman* doctrine precluded plaintiffs' use of tort principles; that is, plaintiffs could not seek to recover their failed commercial expectations under a tort theory of economic recovery. Alternatively, if a duty was determined, MB Financial argued that plaintiffs failed to allege facts to establish that MB Financial breached a duty of care to plaintiffs. MB Financial argued that plaintiffs failed to allege causation in that, but for MB Financial's alleged conduct, plaintiffs' alleged monetary losses would not have occurred.

¶ 8 With respect to count II (breach of fiduciary duty), MB Financial argued that, because plaintiffs were only its depositors, they had a debtor-creditor relationship, and courts have long held that banks do not have a fiduciary relationship with its depositors. MB Financial further argued that courts have also held that a mortgagor-mortgagee relationship does not create a fiduciary relationship. MB Financial concluded that, because plaintiffs have failed to establish the existence of a fiduciary relationship, count II must be dismissed.

¶ 9 With respect to count III (breach of contract), MB Financial argued that plaintiffs failed to allege any specific contract between them and MB Financial or between MB Financial and Reeden or Marrero. MB Financial further argued that plaintiffs failed to indicate any specific term or terms of a contract that MB Financial purportedly breached. MB Financial also argued that plaintiffs failed to indicate whether the purported contract was oral or in writing, and their allegations lacked specificity to any material terms or provisions.

¶ 10 With respect to Count IV (breach of contract-good faith and fair dealing), MB Financial argued that plaintiffs failed to allege the existence of any contract. MB Financial argued that there could be no implied covenant between the parties to a contract where no contract existed. MB Financial also argued that our supreme court does not recognize an independent cause of action for breach of covenant of good faith and fair dealing, in contract or in tort (*Voyles v. Sandia Mortgage Corp.*, 196 Ill. 2d 288 (2001)).

¶ 11 On August 16, 2011, defendant Alan Weel filed a motion to dismiss pursuant to section 2-615 of the Code (735 ILCS 5/2-615 (West 2010)). Those counts directed at Weel were count I (negligent performance of anti-money laundering and “Know your Customer” duties imposed on financial institutions); count II (breach of fiduciary duties); count III (breach of contract as third-party beneficiaries of contract creating a depository relationship between MB Financial and Reeden Capital); and Count IV (breach of covenant of good faith and fair dealing). Weel argued that plaintiffs did not allege specific facts establishing liability of Weel in any of its causes of action.

¶ 12 With respect to count I, Weel argued that, as a former employee of MB Financial, the regulations under the Bank Secrecy Act were applicable to financial institutions and moreover, the Bank Secrecy Act did not provide for a private cause of action and could not provide a basis for

imposing a duty of care. Plaintiff also failed to properly allege any of the required elements of negligence, and their claims were barred by the *Moorman* economic loss doctrine. With respect to count II, Weel argued that plaintiffs failed to allege any facts establishing how Weel owed any fiduciary obligation to plaintiffs, the basis for the duty, or how the obligation was breached. With respect to count III, Weel argued that plaintiffs failed to allege facts regarding the existence of a oral or written contract; they failed to allege any contractual terms; and they failed to attach any written contract. With respect to Count IV, Weel argued that Illinois courts do not recognize a cause of action for breach of the UCC duty of good faith and fair dealing.

¶ 13 On August 18, 2011, defendant Eliseo Ramos, Jr. filed a motion to dismiss. Ramos argued that he was an employee of Reeden but did not hold any management positions and none of the affidavits by plaintiffs mentioned Ramos by name.

¶ 14 Plaintiffs filed their responses; defendants filed their replies; and the parties fully briefed the issues. On September 21, 2011, the trial court conducted a hearing. Following arguments of the parties, the trial court ruled that the motions to dismiss counts I, II, III, and IV of plaintiffs' fourth amended complaint filed by defendants MB Financial Bank N.A. and Alan Weel were granted, with prejudice; the motions of Peter Ramirez and Jose Torres to dismiss counts V, VI, IX, and X of plaintiffs' fourth amended complaint were granted with prejudice; plaintiffs declined to file a fifth amended complaint; and the Court expressly found no just reason to delay the enforcement of or appeal from or both the final order as to defendants MB Financial, Alan Weel, Peter Ramirez, and Jose Torres.

¶ 15 Plaintiffs filed a timely notice of appeal, challenging the trial court's dismissal order. Plaintiff contends that the trial court erred when it granted defendants' motions to dismiss as to (1)

counts I, II, III, and IV against MB Financial and Alan Weel; (2) counts V, VI, IX, and X against Peter Ramirez and Jose Torres.

¶ 16 In reviewing a dismissal pursuant to section 2-615 of the Code, we consider whether the allegations, construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action upon which relief may be granted. *Chandler v. Illinois Central R.R. Co.*, 207 Ill. 2d 331, 348 (2003). However, a plaintiff cannot rely simply on mere conclusions of law or fact unsupported by specific factual allegations. *Jackson v. South Holland Dodge, Inc.*, 197 Ill. 2d 39, 52 (2001). We review *de novo* a trial court's dismissal under section 2-615 of the Code. *Id.*

¶ 17 In the present case, count I was directed against defendants MB Financial and Weel and purported to allege a cause of action based on the negligent performance of anti-money laundering and "Know Your Customer" duties. Plaintiffs argue that defendants' failures "constituted actionable negligence under Illinois common law, in which a bank and its officer have a duty of care to perform the Know Your Customer and Anti Money Laundering duties required by federal law and regulations and good banking practice; which if promptly performed, could and should have prevented continued operation of the Ponzi scheme at the time Plaintiffs made their investments."

¶ 18 The trial court properly dismissed count I against defendants MB Financial and Weel. See *Thompson v. Smith Barney, Harris Upham & Co.*, 709 F. 2d 1413, 1419 (11th Cir. 1983) (no private right of action exists for violation of the "know your customer" rule). Perhaps plaintiffs recognized that they lacked a private right of action; therefore, the count is phrased as sounding in common-law negligence. However, to recover in negligence, plaintiffs must allege and prove that (1) defendants owed a duty to plaintiffs; (2) defendants breached that duty; and (3) the breach caused injury to plaintiffs. See *First Springfield Bank & Trust v. Galman*, 188 Ill. 2d 252, 256 (1999). We reject

plaintiffs' conclusion that the duty is premised upon the federal regulations under which banks operate. Rather, our legislature has expressed that the relationship between a bank and its customer is governed by the UCC. See 810 ILCS 5/1-101 *et seq.* (West 2010); *Napleton v. Great Lakes Bank, N.A.*, 408 Ill. App. 3d 448, 451 (2011). Generally, the relationship between a bank and its customer is contractual and is governed by the terms and provisions of the account agreement between the parties. See *Napleton*, 408 Ill. App. 3d at 456. Plaintiffs provide no facts or authority under which this court should find that a common-law duty runs from the bank or Weel to them, and we decline to extend such a duty. Because plaintiffs are unable to establish a common-law duty owed to them by the bank or Weel under any set of facts, their claim fails as a matter of law, and the trial court properly dismissed count I.

¶ 19 Plaintiffs' count II purported to allege a breach of fiduciary duty by defendants MB Financial and Weel. Plaintiffs were required to plead sufficient facts to establish the existence of a fiduciary duty, a breach of that duty, and damages proximately caused by the breach. See *Tucker v. Soy Capital Bank & Trust Co.*, 2012 IL App (1st) 103303, ¶ 21 (citing *Neade v. Portes*, 193 Ill. 2d 433, 444 (2000)). Plaintiffs' count II fails to allege which parties were depositors with MB Financial or their relationship with Weel. In any event, a fiduciary relationship does not exist as a matter of law between a bank and its depositors. *Johnson v. Edwardsville National Bank & Trust Co.*, 229 Ill. App. 3d 835, 840 (1992). Rather, the relationship is that of debtor-creditor. *Id.* Reviewing courts have declined to find a fiduciary duty absent facts showing that the depositor was subject to domination and influence on the part of the bank. *Id.* (citing *Paskas v. Illini Federal Savings & Loan Ass'n*, 109 Ill. App.3d 24, 30-31 (1982)). Because plaintiffs made no allegations that MB Financial

or Weel exercised directly any such domination and influence to any identifiable depositor, their claim fails as a matter of law, and the trial court properly dismissed count II.

¶ 20 Plaintiffs' count III purported to allege breach of contract as third-party beneficiaries of the contract creating a depository relationship between MB Financial and Reeden Capital and other companies. If a contract is entered into for the direct benefit of a third party who is not a party to the contract, the third party is entitled to sue for breach of that contract. *Advanced Concepts Chicago, Inc. v. CDW Corp.*, 405 Ill. App. 3d 289, 293 (2010) (citing *Carson Pirie Scott & Co. v. Parrett*, 346 Ill. 252, 257 (1931)). The test is whether the benefit to the third party is direct or incidental. *Id.* To determine whether the contracting parties intended to benefit a nonparty to the agreement, courts must look at the terms of the contract and the circumstances surrounding the parties at the time of its execution. *Id.* In the present case, we note first that plaintiffs failed to identify the "other companies" that had intended plaintiffs to become direct or incidental third-party beneficiaries. More fatal than the lack of identification of the other companies, though, is plaintiffs' failure to attach a contract to its complaint and plead facts surrounding the circumstances related to MB Financial and Weel and the "other companies" at the time of the purported contract's execution. See *id.*; see also 735 ILCS 5/2-606 (West 2010) (the Code requires that the written instrument must be attached to the pleading as an exhibit). Accordingly, plaintiffs' claim fails as a matter of law, and the trial court properly dismissed count III.

¶ 21 Plaintiffs' count IV purported to allege a cause of action based on breach of the UCC covenant of good faith and fair dealing. Plaintiffs suggest that we review the facts alleged in their complaint regarding specific violations of federal regulations and good banking practices, which "should give rise to liability in contract or tort." We decline to do so. Our supreme court has

expressly declined to recognize a cause of action for breach of the covenant of good faith and fair dealing. See *Voyles v. Sandia Mortgage Corp.*, 196 Ill. 2d 288, 295-98 (2001). This court is bound to follow the holdings of our supreme court. See *Fosler v. Midwest Care Center II, Inc.*, 398 Ill. App. 3d 563, 573 (2009). Because plaintiffs failed to present facts within a legally recognized cause of action (see *Vernon v. Schuster*, 179 Ill. 2d 338, 344 (1997)), the trial court properly dismissed count IV.

¶ 22 Plaintiffs' count V was directed against Peter Ramirez and alleged that he was liable under the Illinois Securities Law of 1953 (815 ILCS 5/1 *et seq.* (West 2010)). Plaintiffs' count VI was directed against Jose Torres and alleged that he too was liable under the Illinois Securities Law. An established violation under section 12 triggers the remedies listed in Part A of section 13. Part A provides:

“Every sale of a security made in violation of the provisions of this Act shall be voidable at the election of the purchaser exercised as provided in subsection B of this Section; and the issuer, controlling person, underwriter, dealer or other person by or on behalf of whom said sale was made, and each underwriter, dealer or salesperson who shall have participated or aided in any way in making the sale, and in case the issuer, controlling person, underwriter or dealer is a corporation or unincorporated association or organization, each of its officers and directors (or person performing similar functions) who shall have participated or aided in making the sale, shall be jointly and severally liable to the purchaser as follows.” 815 ILCS 5/13(A) (West 2010).

¶ 23 The Illinois Securities Law defines a “controlling person” as “any person offering or selling a security, or group of persons acting in concert in the offer or sale of a security, owning beneficially

*** either (i) 25% or more of the outstanding voting securities of the issuer of such security” or (ii) “such number of outstanding securities of the issuer of such security as would enable such person, or group of persons, to elect a majority of the board of directors or other managing body of such issuer.” 815 ILCS 5/2.4 (West 2010). “[U]nlike the 1934 Exchange Act, where ‘controlling persons’ may be read broadly to reach many parties, the Illinois Act has been applied only to persons playing ‘central and specialized roles.’” *Carlson v. Bear, Stearns & Co. Inc.*, 906 F. 2d 315, 318 (7th Cir. 1990). Moreover, “[w]hile overt action by a member of a controlling group would not always be required, there must be some showing of assent, approval or concurrence, albeit tacit approval, in the action of the group in selling securities, before an individual will be held liable for the actions of the controlling group. A person is not liable merely because one can add his shareholding onto the holdings of a controlling group and they still remain a controlling group. Some connection with the sale, or decision to sell, securities is required under the statute.” *Froehlich v. Matz*, 93 Ill. App. 3d 398, 406 (1981).

¶ 24 In the present case, plaintiffs fail to allege with particularity that Ramirez sold securities, or participated or aided in any way in the making of the sale of securities. Plaintiffs alleged in count V that Ramirez was the chairman of the board of Reeden Capital and for his involvement that “went beyond mere passive holding office,” plaintiffs alleged that Ramirez’s daughter-in-law was the in-house person in charge of supervising the financial affairs; Ramirez signed checks; Ramirez allowed his image, name, and status to be used in informational brochures; Ramirez allowed his name and status to be used in a private placement memorandum; Ramirez regularly visited Reeden Capital’s offices, met with defendant Marrero, and “gave reception staff the impression that he was aware of and involved in the company’s business and affairs”; and Ramirez failed to control Marrero with

respect to the existence of the Ponzi scheme. With respect to count VI against Torres, plaintiffs alleged that Torres worked as a marketing specialist at Reeden Capital, “helping Marrero produce DVD’s and CD’s”; Torres prepared radio advertisements for broadcast in Minnesota; and Torres appeared with Marrero at a sales meeting. Plaintiffs further alleged that Torres was a member of the board of directors of Reeden Capital and that Marrero used Torres’s prominence in the Mexican American community to lure investors to Reeden. Viewing these allegations in the light most favorable to plaintiffs and drawing all possible inferences from these allegations in their favor, we conclude that plaintiffs have failed to sufficiently allege that the Ramirez and Torres played “central and specialized” role in Marrero’s scheme and that Ramirez or Torres participated or aided in the sales made “on behalf of” plaintiffs. See *Carlson*, 906 F. 2d at 318; *Froehlich*, 93 Ill. App. 3d at 406. Accordingly, plaintiffs’ allegations are insufficient to support a claim under the Illinois Securities Law, and the trial court properly dismissed count V and count VI.

¶ 25 Plaintiffs’ count IX was directed against Ramirez and Torres, among others not involved in this appeal, and purported to allege a cause of action for conversion. Conversion is “ ‘any unauthorized act, which deprives a man of his property permanently or for an indefinite time.’ ” *In re Thebus*, 108 Ill. 2d 255, 259 (1985) (quoting *Union Stock Yard & Transit Co. v. Mallory, Son & Zimmerman Co.*, 157 Ill. 554, 563 (1895)). The essence of conversion is “ ‘the wrongful deprivation of one who has a right to the immediate possession of the object unlawfully held.’ ” *Thebus*, 108 Ill. 2d at 259 (quoting *Bender v. Consolidated Mink Ranch, Inc.*, 110 Ill. App. 3d 207, 213 (1982)). To sufficiently allege conversion, therefore, plaintiffs must allege (1) their right to the property; (2) their absolute and unconditional right to the immediate possession of the property; (3) their demand for possession; and (4) Ramirez and Torres wrongfully and without authorization assumed control,

dominion, or ownership over the property. *Loman v. Freeman*, 229 Ill. 2d 104, 127 (2008) (citing *Cirrinzione v. Johnson*, 184 Ill.2d 109, 114 (1998)).

¶ 26 Illinois law limits the circumstances in which a plaintiff may maintain an action for the conversion of money. See *Eggert v. Weisz*, 839 F. 2d 1261, 1264 (7th Cir.1988). “[T]he general rule is that conversion will not lie for money represented by a general debt or obligation.” *Thebus*, 108 Ill. 2d at 261. For money to be the proper subject of a conversion action, it must be capable of being described as a “specific chattel.” *Id.*; see also *Eggert*, 839 F. 2d at 1264. To satisfy this requirement, the plaintiff must have a “right to a specific fund or specific money in coin or bills.” *Mid-America Fire & Marine Insurance Co. v. Middleton*, 127 Ill. App. 3d 887, 892 (1984). Where the plaintiff’s right is merely to “an indeterminate sum” of money, a conversion action cannot successfully be maintained. *Id.*; see also *Eggert*, 839 F. 2d at 1265. Instead, a defendant wrongfully depriving a plaintiff of an indeterminate sum of money is liable for a debt rather than a conversion. See *Eggert*, 839 F. 2d at 1265.

¶ 27 In the present case, plaintiffs alleged that Ramirez and Torres “collectively controlled, managed, and operated Reeden Capital and several other entities as a part of the Ponzi scheme”; Ramirez and Torres “corporately accepted such funds and applied them to their own use, or to the purposes of the Ponzi scheme”; and plaintiffs suffered losses as a result, “as shown in the face amounts of the securities copied in Appendix B or noted in judgments in 09CF1411.” Viewing these allegations liberally and in the light most favorable to plaintiffs, we conclude that plaintiffs have failed to plead a specifically identifiable sum of money. Therefore, plaintiffs’ cause of action for conversion cannot be maintained, and the trial court properly dismissed count IX.

¶ 28 Plaintiffs' count X was directed at Ramirez and Torres, among others not involved in this appeal, and purported to allege a cause of action for breach of contract. The elements of a contract are an offer, a strictly conforming acceptance to the offer, and supporting consideration. *Brody v. Finch University of Health Sciences/The Chicago Medical School*, 298 Ill. App. 3d 146, 154 (1998). To maintain a cause of action for breach of contract, plaintiffs must allege the existence of a contract, performance of all conditions to be performed by plaintiffs, breach by defendants, and damages to plaintiffs as a consequence thereof. *Tucker*, 2012 IL App (1st) 103303, ¶ 49. Moreover, a plaintiff who alleges breach of contract is statutorily required to attach the contract at issue to its complaint. *CNA International, Inc. v Baer*, 2012 IL App (1st) 112174, ¶ 47.

¶ 29 In the present case, plaintiffs have failed to sufficiently plead a cause of action for breach of contract. Plaintiffs failed to plead that a contract existed between them and Ramirez or Torres. Plaintiffs do not identify any conditions they were required to perform. Plaintiffs do not identify the conditions or provisions of the contract that Ramirez or Torres purportedly breached. Plaintiffs do not identify the provision of the contract relating to remedies for an alleged breach. And finally, plaintiffs failed to attach the contract to their complaint. Therefore, the trial court properly dismissed count X of plaintiffs' complaint.

¶ 30 For the foregoing reasons, we affirm the judgment of the circuit court of Du Page County.

¶ 31 Affirmed.