COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS CHRISTI–EDINBURG

Aaron Benbow v. Mohammad Al-Barnawi

No. 13-20-00131-CV (Tex. App.—Corpus Christi–Edinburg Aug. 12, 2021) · No. 13-20-00131-CV · Decided August 12, 2021

SUMMARY

The Texas Thirteenth Court of Appeals held that the trial court mischaracterized Aaron Benbow's claim as negligent repair work when his pleadings alleged that he paid for repairs that were never performed, potentially constituting fraud. The court concluded that fraudulent conduct may constitute a corporate debt under Texas Tax Code § 171.255 and that Benbow was not categorically barred from pursuing personal liability against the LLC's officer. The court reversed the take-nothing judgment and remanded for a new trial.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Gina M. Benavides; Chief Justice Contreras; Justice Benavides; Justice Silva
JURISDICTION	Texas
DECIDED	August 12, 2021
DOCKET	13-20-00131-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Benbow appealed from a county court at law's take-nothing judgment entered after a trial de novo from a justice-of-the-peace judgment. The appeal challenged the trial court's legal conclusion that Texas Tax Code § 171.255 did not permit personal liability for the alleged conduct because the claim was characterized as negligent repair work.
STANDARD OF REVIEW	Questions of law, including statutory construction, are reviewed de novo. Pleadings are construed liberally in favor of a pro se plaintiff, with the court looking to the pleader's intent and accepting factual allegations as true when reviewing pleading sufficiency.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is not otherwise specified in the opinion text.

PARTIES Aaron Benbow v. Mohammad Al-Barnawi

TOPICS

statutory interpretation | appellate procedure | fraud | limited liability companies | civil procedure

PRACTICE AREAS

appellate procedure | business law | torts | civil procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly characterized Benbow's claim as negligent repair work rather than fraud.
2. Whether a claim for fraudulent conduct falls within the definition of a corporate debt for which a corporate officer or director may be personally liable under Texas Tax Code § 171.255(a).

HOLDINGS

1. Benbow's allegation that he paid for repairs that were never performed, construed liberally in his favor, alleged fraud based on knowing misrepresentations rather than negligent repair work.
2. A corporate debt under Texas Tax Code § 171.255 includes liability for fraud claims because fraudulent conduct is intentional, unlike the unintentional tort liability excluded under the court's prior negligence precedent.

KEY QUOTATIONS

> *"So, although a corporate director or officer may invoke and ultimately prevail under the safe harbor provision, a plaintiff is not categorically excluded as a matter of law from pursuing personal liability against a director or officer for fraudulent conduct by the corporation or its employees under § 171.255(a)."*

FACTUAL BACKGROUND

Benbow alleged that he paid Auto Mechanic Service Plus, LLC, $1,075 to replace an air-conditioning evaporator core and $760 for additional recommended repairs. After problems persisted, a dealership mechanic allegedly told him that the evaporator core had not been replaced and that the additional work was unnecessary. The LLC's corporate privileges and charter had been forfeited before the alleged conduct, although the charter was later reinstated. Benbow alleged that Al-Barnawi was the LLC's sole member-manager and was actively involved in its day-to-day operations.

PROCEDURAL HISTORY

Benbow sued Al-Barnawi in justice court, alleging that he paid the LLC for auto repairs that were never performed, and obtained a $3,500 judgment. After the LLC's corporate charter was reinstated, Al-Barnawi appealed to the County Court at Law No. 5 of Nueces County for a trial de novo. The county court rendered a take-nothing judgment for Al-Barnawi, concluding that § 171.255 did not apply to the alleged unintentional tort. The court of appeals reversed and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for a new trial.

CASES CITED

- Williams v. Adams, 74 S.W.3d 437, 442 (Tex. App.—Corpus Christi–Edinburg 2002, pet. denied)
- Marshall v. Hous. Auth. of City of San Antonio, 198 S.W.3d 782, 789 (Tex. 2006)
- Garcia v. Sasson, 516 S.W.3d 585, 591 (Tex. App.—Houston [1st Dist.] 2017, no pet.)
- City of Port Isabel v. Pinnell, 207 S.W.3d 394, 402 (Tex. App.—Corpus Christi–Edinburg 2006, no pet.)
- Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314, 318 (Tex. 2002)
- Moreno v. Silva, 316 S.W.3d 815, 817 (Tex. App.—Dallas 2010, pet. denied)
- Tex. Dep't of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226 (Tex. 2004)
- Wooley v. Schaffer, 447 S.W.3d 71, 74–75 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)
- Sanchez v. Mulvaney, 274 S.W.3d 708, 712 (Tex. App.—San Antonio 2008, no pet.)
- McCarthy v. Wani Venture, A.S., 251 S.W.3d 573, 590 (Tex. App.—Houston [1st Dist.] 2007, pet. denied)
- Julka v. U.S. Bank Nat'l Ass'n, 516 S.W.3d 84, 88 (Tex. App.—Houston [1st Dist.] 2017, no pet.)
- Rossmann v. Bishop Colorado Retail Plaza, L.P., 455 S.W.3d 797, 802 (Tex. App.—Dallas 2015, pet. denied)
- PACCAR Fin. Corp. v. Potter, 239 S.W.3d 879, 883 (Tex. App.—Dallas 2007, no pet.)
- Adams, 74 S.W.3d at 141–42
- JPMorgan Chase Bank, N.A. v. Orca Assets G.P., L.L.C., 546 S.W.3d 648, 653 (Tex. 2018)
- LTTS Charter Sch., Inc. v. Palasota, 362 S.W.3d 202, 209 (Tex. App.—Dallas 2012, no pet.)
- Seureau v. ExxonMobil Corp., 274 S.W.3d 206, 219 (Tex. App.—Houston [14th Dist.] 2008, no pet.)
- Sanders v. City of Grapevine, 218 S.W.3d 772, 779 (Tex. App.—Fort Worth 2007, pet. denied)
- Gen. Elec. Co. v. City of Abilene, 795 S.W.2d 311, 313 (Tex. App.—Eastland 1990, no writ)
- Skrepnek v. Shearson Lehman Bros., Inc., 889 S.W.2d 578, 581–82 (Tex. App.—Houston [14th Dist.] 1994, no writ.)
- Super Ventures, Inc. v. Chaudhry, 501 S.W.3d 121, 134–35 (Tex. App.—Fort Worth 2016, no pet.)