

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Progreso LLC and Progreso La Michoacana Meat Market San Antonio #10, LLC v. Rosamaria Gonzalez

No. 04-20-00437-CV · No. No. 04-20-00437-CV · Decided September 23, 2020

SUMMARY

The Fourth Court of Appeals of Texas ordered the appellants to show cause why their interlocutory appeal should not be dismissed for lack of jurisdiction. The clerk's record did not contain the order denying the appellants' motion to compel arbitration, and the court suspended all other appellate deadlines pending further order.

OPINION

PER CURIAM.

Fourth Court of Appeals San Antonio, Texas September 23, 2020 No. 04-20-00437-CV PROGRESO LLC and Progreso La Michoacana Meat Market San Antonio #10, LLC, Appellants v. Rosamaria GONZALEZ, Appellee From the 73rd Judicial District Court, Bexar County, Texas Trial Court No. 2019CI25139 Honorable John D. Gabriel, Jr., Judge Presiding ORDER A party may not appeal an interlocutory order unless authorized by statute.

See Robert B. James, DDS, Inc. v. Elkins, 553 S.W.3d 596, 632 (Tex. App.—San Antonio 2018, pet. denied). On September 8, 2020, appellants filed a notice of interlocutory appeal indicating they wish to appeal “the August 17, 2020 Order on Defendants, Progreso LLC and Progreso La Michoacana Meat Market San Antonio #10, LLC d/b/a La Michoacana Meat Market’s First Amended Motion to Compel Arbitration.” An interlocutory appeal of an order denying a motion to compel arbitration is permissible under some circumstances.

See Ellis v. Schlimmer, 337 S.W.3d 860, 861 (Tex. 2011) (“If a trial court denies a motion to compel arbitration, appellate review may be available under both the [Texas Arbitration Act] and the [Federal Arbitration Act] so long as the [Texas Arbitration Act] is not preempted.”).

On September 18, 2020, the district clerk filed a copy of the clerk's record. That record does not contain the order listed in the notice of appeal or any other order denying appellants' motion to compel arbitration. See *id.* We therefore ORDER appellants to show cause by October 5, 2020 why this appeal should not be dismissed for lack of jurisdiction.

We ORDER all other appellate deadlines suspended pending further order of this court.

Beth Watkins, Justice IN WITNESS WHEREOF, I have

hereunto set my hand and affixed the seal of the said court on this 23rd day of September, 2020.

_____ Michael A. Cruz, Clerk of Court

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