

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Lorrie Frazin v. Marc Sauty and Benedicte Sauty

No. 05-17-00944-CV · No. No. 05-17-00944-CV · Decided January 22, 2019

SUMMARY

The Fifth District Court of Appeals of Texas at Dallas affirmed an order releasing a supersedeas bond in a landlord-tenant dispute. The court held that the appellant failed to preserve her challenge to the award of attorney’s fees and that post-judgment interest properly accrued from the date of the original trial-court judgment after the appellate court affirmed in part and reversed and rendered in part.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Robbie Partida-Kipness; Justice Partida-Kipness; Justice Pedersen, III; Justice Carlyle
JURISDICTION	Texas
DECIDED	January 22, 2019
DOCKET	No. 05-17-00944-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Frazin appealed from the trial court's post-mandate order releasing a cash supersedeas bond, which awarded the Sautys damages, post-judgment interest, and attorney's fees.
STANDARD OF REVIEW	Complaints not preserved by a timely request, objection, or motion stating specific grounds are not reviewable on appeal. The post-judgment-interest issue was reviewed under the applicable legal rules governing accrual after appellate modification of a judgment.
PRECEDENTIAL VALUE	Memorandum opinion; precedential status is not otherwise specified in the opinion text.
PARTIES	Lorrie Frazin v. Marc Sauty, Benedicte Sauty

TOPICS

- landlord tenant
- attorney fees
- preservation of error
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Frazin preserved her challenge to the award of attorney's fees by objecting in the trial court.
2. Whether post-judgment interest accrued from the date of the trial court's original judgment rather than from the date of the later evidentiary hearing, order, or appellate mandate.

HOLDINGS

1. Frazin failed to preserve her challenge to the attorney's-fees award because she did not show that she timely objected in the trial court to the award or its statutory basis.
2. When an appellate court reverses in part and renders judgment while affirming the remainder of the trial court's judgment, post-judgment interest accrues from the date of the original, erroneous trial-court judgment rather than from the later mandate, hearing, or enforcement order.

KEY QUOTATIONS

"Thus, the trial court did not err in awarding post-judgment interest from the date of its original judgment after our mandate affirming in part and reversing and rendering in part." (at 3–4)

FACTUAL BACKGROUND

The Sautys sued Frazin after she failed to return their residential real estate deposit. Following a jury trial, the trial court awarded the Sautys \$6,685 in damages, \$865.68 in costs, and statutory prejudgment and post-judgment interest. On the second appeal, the court of appeals deleted the prejudgment-interest award but affirmed the remainder of the judgment. After the mandate issued, the trial court released Frazin's cash supersedeas bond and awarded the Sautys \$796.18 in post-judgment interest and \$1,500 in attorney's fees.

PROCEDURAL HISTORY

The Sautys sued Frazin for failing to return a residential security deposit. The trial court initially granted summary judgment to the Sautys, but the court of appeals reversed and remanded. After a jury trial, the trial court entered judgment for the Sautys; on the second appeal, the court of appeals deleted the prejudgment-interest award and affirmed the judgment in all other respects. After the mandate issued, the trial court ordered release of Frazin's supersedeas bond and awarded post-judgment interest and attorney's fees. Frazin appealed, and the court affirmed.

DISPOSITION

affirmed

CASES CITED

- Frazin v. Sauty, No. 05-12-00137-CV, 2014 WL 3828210, at *1, *7 (Tex. App.—Dallas Aug. 5, 2014, no pet.) (mem. op.)

- Frazin v. Sauty, No. 05-15-00879-CV, 2016 WL 7163858, at *2–3, *8 (Tex. App.—Dallas Nov. 7, 2016, pet. denied) (mem. op.)
- Coffin v. Bank of Oklahoma, N.A., No. 05-13-00232-CV, 2014 WL 198410, at *1 (Tex. App.—Dallas Jan. 16, 2014, no pet.) (mem. op.)
- Long v. Castle Texas Production Ltd. Partnership, 426 S.W.3d 73, 80 (Tex. 2014)
- Thornal v. Cargill, Inc., 587 S.W.2d 384, 384–85 (Tex. 1979) (per curiam) (op. on reh'g)
- American Paper Stock Co. v. Howard, 528 S.W.2d 576 (Tex. 1975)