

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Bruce Kneese v. Wells Fargo Bank, N.A.; Wells Fargo Home Mortgage, Inc.; Mark C. Sparrow; and Dawn M. Sparrow

No. 04-20-00277-CV · No. 04-20-00277-CV · Decided August 18, 2021

SUMMARY

The Fourth Court of Appeals of Texas affirmed summary judgments favoring Wells Fargo and Mark and Dawn Sparrow in a contractor’s claims arising from the release of a construction lien and the contractor’s inability to collect an arbitration judgment. The court held that the appellant’s brief challenged only the traditional summary-judgment grounds and failed to present adequate legal arguments, record citations, and supporting authority addressing the independent no-evidence grounds. Because the no-evidence grounds independently supported the judgments, the court affirmed.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Patricia O. Alvarez; Luz Elena D. Chapa; Lori I. Valenzuela
JURISDICTION	Texas
DECIDED	August 18, 2021
DOCKET	04-20-00277-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from final summary judgments entered for Wells Fargo and the Sparrows after the trial court severed claims against another remaining defendant.
STANDARD OF REVIEW	The court applied the rule that an appellant seeking reversal must challenge every independent ground that fully supports the judgment. A failure to present a legally adequate appellate argument against an independent ground requires affirmance.
PRECEDENTIAL VALUE	published
PARTIES	Bruce Kneese v. Wells Fargo Bank, N.A., Wells Fargo Home Mortgage, Inc., Mark C. Sparrow, Dawn M. Sparrow

TOPICS

summary judgment

appellate procedure

preservation of error

civil procedure

construction law

PRACTICE AREAS

appellate procedure

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construction law

contracts

real estate

QUESTIONS PRESENTED

1. Whether Kneese's appeal could succeed when his brief challenged the traditional summary-judgment grounds but failed to present legal arguments challenging the independent no-evidence grounds.
2. Whether the trial court's summary judgments had to be affirmed because the unchallenged no-evidence grounds independently supported the judgments.

HOLDINGS

1. An appellant seeking reversal must challenge every independent ground that fully supports the judgment or appealable order; if the appellant fails to present a legal argument against one such ground, the court must affirm.
2. Kneese's single-sentence challenge to the no-evidence grounds did not present a legally adequate appellate argument and therefore did not preserve a basis for reversal.

KEY QUOTATIONS

"An appellant must challenge all independent bases or grounds that fully support a judgment or appealable order." (2)

"A brief in the court of appeals 'must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record.'" (3)

FACTUAL BACKGROUND

In 2006, Mark and Dawn Sparrow hired Bruce Kneese to construct an addition to their home and executed a contract secured by a deed of trust and power of sale. Wells Fargo's predecessor funded the construction loan, and Kneese assigned his mechanic's and materialmen's lien to the lender. After Kneese obtained an approximately \$134,000 arbitration judgment against the Sparrows, the property was refinanced in 2014 and Wells Fargo released the 2006 lien. Kneese then sued Wells Fargo and the Sparrows, alleging that the lien was released without ensuring payment of his judgment.

PROCEDURAL HISTORY

Kneese, a general contractor, sued the Sparrows and Wells Fargo relating to the release of a construction-lien interest and his inability to collect an arbitration judgment. Wells Fargo and the Sparrows moved for traditional and no-evidence summary judgment, and the trial court granted both motions. After severance made the summary judgments final, Kneese appealed, challenging the traditional grounds but failing to present developed legal arguments against the no-evidence grounds.

DISPOSITION

affirmed

CASES CITED

- FM Props. Operating Co. v. City of Austin, 22 S.W.3d 868, 872 (Tex. 2000)
- Ford Motor Co. v. Ridgway, 135 S.W.3d 598, 600 (Tex. 2004)
- In re M.J.M.G., 543 S.W.3d 862, 864 (Tex. App.—San Antonio 2017, no pet.)
- Mass. Bay Ins. Co. v. Adkins, 615 S.W.3d 580, 612 (Tex. App.—Houston [1st Dist.] 2020, no pet.)
- Britton v. Tex. Dep’t of Criminal Justice, 95 S.W.3d 676, 681 (Tex. App.—Houston [1st Dist.] 2002, no pet.)
- Oliphant Fin. LLC v. Angiano, 295 S.W.3d 422, 424 (Tex. App.—Dallas 2009, no pet.)
- ERI Consulting Eng’rs, Inc. v. Swinnea, 318 S.W.3d 867, 880 (Tex. 2010)
- Canton-Carter v. Baylor Coll. of Med., 271 S.W.3d 928, 931 (Tex. App.—Houston [14th Dist.] 2008, no pet.)
- Ross v. St. Luke’s Episcopal Hosp., 462 S.W.3d 496, 500 (Tex. 2015)
- Lowry v. Tarbox, 537 S.W.3d 599, 620 (Tex. App.—San Antonio 2017, pet. denied)
- RSL Funding, LLC v. Newsome, 569 S.W.3d 116, 126 (Tex. 2018)
- Blake v. Intco Invs. of Tex., Inc., 123 S.W.3d 521, 525 (Tex. App.—San Antonio 2003, no pet.)
- Aleman v. Ben E. Keith Co., 227 S.W.3d 304, 309 (Tex. App.—Houston [1st Dist.] 2007, no pet.)