

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Merit Management Partners I, L.P. (Formerly Known as Merit Partners, L.P.); Merit Energy Partners III, L.P.; and Merit Energy Partners D-III, L.P. v. Walter D. Noelke, as General Partner of the NF5 Family Limited Partnership

Merit Management Partners · No. 03-07-00058-CV · Decided October 3, 2008

SUMMARY

In this dissenting opinion, Justice Diane M. Henson would have held that the county court had jurisdiction over a contract dispute involving reimbursement, attorney's fees, and liquidated damages under a Consent to Assignment. The dissent reasons that any title issues were merely incidental because the plaintiff did not need to establish title to recover the requested damages. It would have overruled the appellant's jurisdictional challenge and reached the remaining issues on appeal.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	Diane M. Henson; Justice Puryear; Justice Waldrop; Justice Henson
JURISDICTION	Texas
DECIDED	October 3, 2008
DOCKET	03-07-00058-CV
DISPOSITION	other
PROCEDURAL POSTURE	Merit appealed from a Tom Green County Court at Law order or judgment involving the county court's jurisdiction over Noelke's breach-of-contract claim. The dissent would have held that the county court had subject-matter jurisdiction because any title issues were merely incidental to the contract dispute.
PRECEDENTIAL VALUE	dissenting
PARTIES	Merit Management Partners I, L.P. (formerly known as Merit Partners, L.P.), Merit Energy Partners III, L.P., Merit Energy Partners D-III, L.P. v. Walter D. Noelke, as general partner of the NF5 Family Limited Partnership

TOPICS

subject matter jurisdiction

breach of contract

real estate

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

contracts

real estate

commercial litigation

appellate procedure

QUESTIONS PRESENTED

1. Whether a county court has subject-matter jurisdiction over a contract action concerning real property when the plaintiff seeks contractual damages but does not need to establish title to obtain relief.
2. Whether issues of title that are merely incidental to a contract dispute require the action to be brought in district court.

HOLDINGS

1. In the dissent's view, the county court properly exercised jurisdiction because Noelke sought contractual damages under the Consent to Assignment and was not required to establish title to recover those damages.

KEY QUOTATIONS

"Rather, we must review 'the nature of the relief sought by plaintiff and what plaintiff is required to establish before being entitled to said relief,' in order to determine whether the county court has jurisdiction."

"Where, as here, 'the question of title comes incidentally into the case,' the county court 'does not adjudicate or settle the title to the land nor the right to recover it, but simply determines that the plaintiff is or is not entitled to recover the thing sued for, within the jurisdiction.'"

FACTUAL BACKGROUND

Noelke sought damages under a provision of a Consent to Assignment that entitled him to reimbursement for expenses, time, and attorney's fees, as well as related costs and liquidated damages. It was undisputed that Noelke held title to the surface estate at issue and that Merit had used the property and paid rent since 2003. The dissent reasoned that Noelke did not need to establish title to recover the contractual damages and that any title questions were tangential to the contract dispute.

PROCEDURAL HISTORY

The case originated in County Court at Law No. 2 of Tom Green County, Texas, before Judge Penny Anne Roberts. Noelke sought attorney's fees, costs, rental-related amounts, and liquidated damages under a provision of a Consent to Assignment. Merit challenged the county court's jurisdiction, apparently contending that the suit involved recovery of land or adjudication of title. The dissent would have overruled Merit's first appellate issue and reached the three remaining issues, but the provided text does not state the majority's disposition.

DISPOSITION

other

CASES CITED

- Doggett v. Nitschke, 498 S.W.2d 339, 339 (Tex. 1973)
- Chambers v. Pruitt, 241 S.W.3d 679, 684 (Tex. App.--Dallas 2007, no pet.)
- Coughran v. Nunez, 127 S.W.2d 885, 887 (Tex. 1939)
- Carter v. Gray, 81 S.W.2d 647, 648 (Tex. 1935)
- Kegans v. White, 131 S.W.2d 990, 993-994 (Tex. Civ. App.--Eastland 1939, writ ref'd)
- Peek v. Equipment Serv. Co., 779 S.W.2d 802, 804 (Tex. 1989)
- Martinez v. Daccarett, 865 S.W.2d 161, 163 (Tex. App.--Corpus Christi 1993, no writ)
- Henslee v. Boyd, 107 S.W. 128, 129 (Tex. Civ. App.--Dallas 1908, no writ)
- City of Victoria v. Schott, 29 S.W. 681, 681 (Tex. Civ. App.--Houston 1895, no writ)

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