

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT

Ron Pegram d/b/a Property Resources v. GBL Galaxy Builders, Ltd. d/b/a Galaxy Builders, Ltd.

Pegram v. GBL Galaxy Builders · No. 04-09-00413-CV · Decided November 18, 2009

SUMMARY

The court dismissed the appeal after the parties settled the underlying dispute and the appellant failed to respond to an order to show cause. All costs were assessed against the appellant.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District
WRITING FOR THE COURT	Catherine Stone, Chief Justice; Steven C. Hilbig, Justice; Marialyn Barnard, Justice
JURISDICTION	Texas
DECIDED	November 18, 2009
DOCKET	04-09-00413-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellee notified the court that the parties had settled the dispute and requested dismissal of the appeal. After appellant failed to respond to an order to show cause, the court dismissed the appeal and assessed costs against appellant.
PRECEDENTIAL VALUE	Published memorandum opinion; no reporter citation appears in the provided text
PARTIES	Ron Pegram d/b/a Property Resources v. GBL Galaxy Builders, Ltd. d/b/a Galaxy Builders, Ltd.

TOPICS

mootness appellate procedure costs civil procedure

PRACTICE AREAS

Appellate procedure Civil procedure

QUESTIONS PRESENTED

1. Whether the appeal should be dismissed as moot after the parties settled the underlying dispute.
2. Whether costs should be assessed against appellant upon dismissal.

HOLDINGS

1. Because the parties settled the underlying dispute, no live controversy remained and the appeal was moot; the court therefore dismissed the appeal.
2. All costs of the appeal were properly assessed against appellant.

KEY QUOTATIONS

“holding that when parties have settled dispute, there is no longer a live controversy between them, and appeal is moot”

FACTUAL BACKGROUND

The parties settled the dispute underlying the appeal. Their agreement required Ron Pegram d/b/a Property Resources to drop and dismiss the appeal, but Pegram did not respond to the appellate court's order to show cause.

PROCEDURAL HISTORY

The appeal arose from the County Court at Law No. 5 of Bexar County, Texas, trial court cause number 339415. During the appeal, the parties settled, appellee filed the settlement agreement and notice requesting dismissal, and appellant did not respond to the court's show-cause order.

DISPOSITION

dismissed

CASES CITED

- Bd. of Adjustment v. Wende, 92 S.W.3d 424, 427 (Tex. 2002)

OPINION

PER CURIAM.

MEMORANDUM OPINION No. 04-09-00413-CV Ron PEGRAM d/b/a Property Resources, Appellant v. GBL GALAXY BUILDERS, LTD. d/b/a Galaxy Builders, Ltd., Appellee From the County Court at Law No. 5, Bexar County, Texas Trial Court No. 339415 Honorable Timothy Johnson, Judge Presiding PER CURIAM Sitting: Catherine Stone, Chief Justice Steven C. Hilbig, Justice Marialyn Barnard, Justice Delivered and Filed: November 18, 2009 DISMISSED Appellee GBL Galaxy Builders, Ltd. filed a notice advising the court the parties have settled the dispute underlying this appeal.

Appellee attached a copy of the parties' agreement, which requires appellant, Ron Pegram d/b/a Property Resources to "drop and dismiss the appeal." On October 30, 2009, we ordered appellant to show cause, no later than November 6, 2009, why the appeal should not be dismissed. See *Bd. of Adjustment v. Wende*, 92 S.W.3d 424, 427 (Tex. 2002) (holding that when parties have settled dispute, there is no longer a live controversy between them, and appeal is moot).

Our order advised appellant the appeal would be dismissed if appellant failed to satisfactorily respond within the time provided. See Tex. R. App. P. 42.3(c). Appellant has not responded to our order. We therefore dismiss this appeal.

We order all costs assessed against appellant. See Tex. R. App. P. 42.1(d). PER CURIAM