

COURT OF APPEALS OF THE NINTH DISTRICT OF TEXAS AT BEAUMONT

In the Estate of James E. Farmer A/K/A Pete Farmer

No. 09-18-00314-CV · No. No. 09-18-00314-CV · Decided November 1, 2018

SUMMARY

The Ninth District Court of Appeals of Texas dismissed an appeal from an interlocutory probate order for lack of jurisdiction. The court held that the order did not dispose of claims concerning probate assets or attorneys' fees and therefore did not conclude a discrete phase of the probate proceedings.

CASE DETAILS

COURT	Court of Appeals of the Ninth District of Texas at Beaumont
WRITING FOR THE COURT	Steve McKeithen; Steve McKeithen, C.J.; Kreger, J.; Horton, J.
JURISDICTION	Texas
DECIDED	November 1, 2018
DOCKET	No. 09-18-00314-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from an interlocutory order granting in part and denying in part competing motions for summary judgment in a probate proceeding; the appellee moved to dismiss for lack of appellate jurisdiction.
STANDARD OF REVIEW	The court applied the jurisdictional and finality rules governing appeals from probate orders; no separate standard of review for the summary-judgment rulings was reached.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status not otherwise specified in the opinion text.
PARTIES	Angela Khalil, Ryan Farmer v. Lisa Ann Farmer Hunt, Lorraine Farmer

TOPICS

[probate procedure](#) [appellate jurisdiction](#) [interlocutory appeal](#) [summary judgment](#) [civil procedure](#)

PRACTICE AREAS

[Probate](#) [Civil procedure](#) [Appellate jurisdiction](#)

QUESTIONS PRESENTED

1. Whether the trial court's partial summary-judgment order was final and immediately appealable in the probate proceeding.
2. Whether the appellate court had jurisdiction when the order did not dispose of all issues in a particular phase of the probate proceedings.

HOLDINGS

1. The order was interlocutory and not subject to immediate appeal because it did not dispose of all issues in a particular phase of the probate proceedings.
2. The Court of Appeals lacked jurisdiction over the interlocutory order and dismissed the appeal without reaching the merits.

KEY QUOTATIONS

“The order is interlocutory and not subject to immediate appeal if it “does not end a phase of the proceedings, but sets the stage for the resolution of all proceedings[.]”” (at 2)

“We conclude the trial court’s order is interlocutory and not subject to immediate appeal because it does not dispose of all issues in a particular phase of the proceedings below.” (at 2)

“We grant the motion to dismiss and dismiss the appeal for lack of jurisdiction without reference to the merits.” (at 2)

FACTUAL BACKGROUND

The proceeding involved a petition for declaratory relief and a demand for an accounting concerning the estate of James E. Farmer, including disputes over a joint will and the characterization of non-probate assets. The trial court partially resolved competing summary-judgment motions and ordered that plaintiffs take nothing on claims seeking recovery of non-probate property or assets. Claims concerning probate assets and attorney's fees remained unresolved.

PROCEDURAL HISTORY

The 356th District Court of Hardin County signed an order addressing partial summary judgment motions, ordering that plaintiffs take nothing on claims seeking non-probate property or assets, and rendering declaratory judgment concerning a joint will and characterization of non-probate assets. The order did not resolve claims involving probate assets, the demand for an accounting, the petition for declaratory judgment as to probate assets, or claims for attorney's fees. The plaintiffs appealed, and the defendants filed notices of appeal subject to dismissal motions. The Court of Appeals granted the motion to dismiss and dismissed the appeal for lack of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 192, 195 (Tex. 2001)
- Crowson v. Wakeham, 897 S.W.2d 779, 783 (Tex. 1995)
- De Ayala v. Mackie, 193 S.W.3d 575, 579 (Tex. 2006)

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