

COURT OF APPEALS OF TEXAS, SECOND APPELLATE DISTRICT, FORT WORTH

Culberson-Stowers, Inc.; Richard W. Stowers Jr.; and Culberson Rental and Leasing Co., Inc. v. Lease Corporation of America

Culberson-Stowers · No. 02-23-00123-CV · Decided November 16, 2023

SUMMARY

The Texas Court of Appeals for the Second Appellate District affirmed a final judgment granting Lease Corporation of America’s no-evidence motion for summary judgment and dismissing the appellants’ bill-of-review petition with prejudice. The court held that the appellants failed to produce evidence that the underlying judgment was rendered without their own fault or negligence, because their counsel received the summary-judgment motion and hearing notice but failed to respond or appear.

CASE DETAILS

COURT	Court of Appeals of Texas, Second Appellate District, Fort Worth
WRITING FOR THE COURT	Dabney Bassel; Wallach; Walker
JURISDICTION	Texas
DECIDED	November 16, 2023
DOCKET	02-23-00123-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment granting Lease Corporation of America's no-evidence motion for summary judgment and dismissing with prejudice appellants' bill-of-review petition.
STANDARD OF REVIEW	The court reviewed the disposition of the bill of review through summary judgment de novo. For the no-evidence summary judgment, it examined the entire record in the light most favorable to the nonmovant, indulged every reasonable inference, resolved doubts against the motion, and asked whether more than a scintilla of evidence enabled reasonable and fair-minded jurors to differ.
PRECEDENTIAL VALUE	Published memorandum opinion
PARTIES	Culberson-Stowers, Inc., Richard W. Stowers Jr., Culberson Rental and Leasing Co., Inc. v. Lease Corporation of America

TOPICS

summary judgment

civil procedure

appellate procedure

remedies

commercial litigation

PRACTICE AREAS

Civil procedure

Appellate procedure

Commercial litigation

Equitable remedies

QUESTIONS PRESENTED

1. Whether the trial court properly granted LCA's no-evidence summary judgment on appellants' bill-of-review petition.
2. Whether appellants produced evidence that the underlying judgment was rendered without fault or negligence on their part, despite their attorney's failure to respond to the underlying summary-judgment motion or appear at the hearing.

HOLDINGS

1. Appellants failed to produce evidence that the underlying judgment was rendered without their own fault or negligence. Their attorney's admitted failure to respond to the underlying summary-judgment motion or attend the hearing constituted negligence attributable to appellants, and the alleged lack of notice of the judgment did not excuse proof of this element when the bill of review was based on official mistake under Texas Rule of Civil Procedure 306a(3).
2. The no-evidence summary judgment was proper because appellants failed to present more than a scintilla of evidence on an essential bill-of-review element.

KEY QUOTATIONS

"Courts narrowly construe the grounds on which a plaintiff may obtain a bill of review due to Texas's fundamental public policy favoring the finality of judgments." (5)

"Applying the applicable standard of review, we hold that there is no evidence of the third element that Appellants were required to prove for their bill-of-review proceeding and that the trial court's granting of LCA's no-evidence summary-judgment motion was proper." (9)

FACTUAL BACKGROUND

LCA filed an underlying action and obtained a traditional summary judgment after appellants' counsel received both the summary-judgment motion and hearing notice but failed to respond or appear. Appellants later filed a bill-of-review petition, claiming that they did not receive notice of the judgment until a bank-account garnishment occurred. In their summary-judgment filings, appellants admitted that their attorney received the motion and hearing notice but mistakenly placed them in the file without bringing them to the attorney's attention.

PROCEDURAL HISTORY

In the underlying action, Lease Corporation of America obtained a traditional summary judgment after appellants' counsel received the motion and hearing notice but did not respond or appear. Appellants later filed a bill-of-review petition, asserting that they lacked notice of the judgment. The trial court denied an initial summary-judgment motion by LCA, but later granted LCA's no-evidence summary-judgment motion on the bill of review and dismissed the petition with prejudice. After the trial court denied appellants' motion for new trial, appellants appealed.

DISPOSITION

affirmed

CASES CITED

- Lehmann v. Har-Con Corp., 39 S.W.3d 191, 195 (Tex. 2001)
- Mandel v. Lewisville Indep. Sch. Dist., 499 S.W.3d 65, 70 (Tex. App.—Fort Worth 2016, pet. denied)
- Sudan v. Sudan, 199 S.W.3d 291, 292 (Tex. 2006)
- Hamilton v. Wilson, 249 S.W.3d 425, 426 (Tex. 2008)
- City of Keller v. Wilson, 168 S.W.3d 802, 822 (Tex. 2005)
- Timpte Indus. v. Gish, 286 S.W.3d 306, 310 (Tex. 2009)
- Mack Trucks, Inc. v. Tamez, 206 S.W.3d 572, 582 (Tex. 2006)
- Smith v. O'Donnell, 288 S.W.3d 417, 424 (Tex. 2009)
- King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 751 (Tex. 2003)
- Mabon Ltd. v. Afri-Carib Enters., Inc., 369 S.W.3d 809, 812 (Tex. 2012)
- Montgomery v. Kennedy, 669 S.W.2d 309, 311-12 (Tex. 1984)
- Petro-Chem. Transp., Inc. v. Carroll, 514 S.W.2d 240, 245 (Tex. 1974)
- Saint v. Bledsoe, 416 S.W.3d 98, 106 (Tex. App.—Texarkana 2013, no pet.)
- Peralta v. Heights Med. Ctr., Inc., 485 U.S. 80, 84, 86 (1988)
- Univ. of Tex. Med. Sch. v. Than, 901 S.W.2d 926, 930 (Tex. 1995)
- In re Guardianship of Jordan, 348 S.W.3d 401, 405 (Tex. App.—Beaumont 2011, no pet.)
- Montalvo v. Vela, No. 13-14-00166-CV, 2016 WL 192063, at *3 (Tex. App.—Corpus Christi–Edinburg Jan. 14, 2016, no pet.)
- In re Gypsum Mgmt. & Supply, Inc., No. 05-04-01545-CV, 2004 WL 2915284, at *2 (Tex. App.—Dallas Dec. 17, 2004, orig. proceeding)
- Transworld Fin. Servs. Corp. v. Briscoe, 722 S.W.2d 407, 408 (Tex. 1987)
- Gracey v. West, 422 S.W.2d 913, 916 (Tex. 1968)
- In re Pollo Gordo, Inc., 373 S.W.3d 107, 110 (Tex. App.—San Antonio 2012, orig. proceeding)
- Craddock v. Sunshine Bus Lines, Inc., 133 S.W.2d 124, 126 (Tex. [Comm'n Op.] 1939)
- Carpenter v. Cimarron Hydrocarbons Corp., 98 S.W.3d 682, 683-84, 686 (Tex. 2002) (op. on reh'g)
- Gard v. Douglas Ray Stracener Estate, 631 S.W.3d 728, 734 (Tex. App.—Texarkana 2021, no pet.)

- Amaya v. Bissell HomeCare, Inc., No. 13-18-00086-CV, 2020 WL 4382020, at *10 (Tex. App.—Corpus Christi–Edinburg July 30, 2020, no pet.)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/texas-court-of-appeals-of-texas-second-appellate-district-fort-worth/2023/culberson-stowers-inc-richard-w-stowers-jr-and-culberson-mc4izhb4>