

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

MRC Permian Company v. Point Energy Partners Permian LLC

MRC Permian · No. 08-19-00124-CV; 08-21-00065-CV · Decided April 28, 2021

SUMMARY

The Texas Eighth Court of Appeals withdraws its previously issued opinions and judgment because appellee Holland Acquisitions, Inc. had filed for Chapter 7 bankruptcy before those materials were issued, triggering an automatic stay. The court grants a motion to sever Holland from the appeal, creates a separate appellate cause, reinstates the appeal against the nonbankrupt parties, and orders the clerk to restyle the original cause.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District, El Paso
WRITING FOR THE COURT	Gina M. Palafox; Rodriguez, C.J.; Gina M. Palafox, J.; Alley, J.
JURISDICTION	Texas
DECIDED	April 28, 2021
DOCKET	08-19-00124-CV; 08-21-00065-CV
DISPOSITION	other
PROCEDURAL POSTURE	Order addressing the effect of a Chapter 7 bankruptcy filing by appellee/cross-appellant Holland Acquisitions, Inc. on a previously decided appeal; the court withdraws its prior opinions and judgment, severs Holland from the appeal, and reinstates the appeal as to the nonbankrupt parties.
PRECEDENTIAL VALUE	Published Texas intermediate appellate court order; precedential effect is not otherwise specified in the provided text.
PARTIES	MRC Permian Company v. Point Energy Partners Permian LLC, TJ Bar, LLC, Tubb Memorial, an Oregon Limited Partnership, PlainsCapital Bank, Trustee for the Deborah Jackson Revocable Trust, Bank of America, N.A., Trustee for the Janelle Jackson Marital Trust Part M2, Janelle Jackson Marital Trust Part M1, and Family Credit Shelter Trust Part B, Vortus Investment Advisors, LLC, John Sabia, Bryan Moody

TOPICS

automatic stay

chapter 7

appellate procedure

bankruptcy

civil procedure

PRACTICE AREAS

bankruptcy

appellate procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether Holland's bankruptcy filing automatically stayed the pending appeal and required withdrawal of the opinions and judgment issued after the filing.
2. Whether the appeal could be severed as to Holland and reinstated as to the nonbankrupt parties under Texas Rule of Appellate Procedure 8.3.
3. Whether filings made while the appeal was suspended could be treated as filed upon reinstatement.

HOLDINGS

1. Holland's Chapter 7 bankruptcy filing automatically stayed the appeal as to Holland because the appeal was a continuation of judicial action against a debtor who had been a defendant or appellee. The opinions and judgment issued after the bankruptcy filing were therefore withdrawn.
2. The court may sever the bankrupt appellee from the appeal and reinstate the appeal as to the nonbankrupt parties when the case is severable and the severance complies with federal bankruptcy law.
3. Papers filed in the appeal while it was suspended will be deemed filed on the date of the order, after severance and reinstatement, and will not be considered ineffective solely because they were filed during the suspension.

KEY QUOTATIONS

“Because an appeal is a continuation of judicial action, it is automatically stayed if it is “against the debtor.”” (2)

“When a defendant files a bankruptcy petition, an automatic stay goes into effect and abates any judicial proceeding against that party. However, the stay only operates against the debtor, and does not operate against non-debtors or even co-debtors, co-tortfeasors, or co-defendants.” (3)

FACTUAL BACKGROUND

Holland Acquisitions, Inc., an appellee and cross-appellant, filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court for the District of Delaware on February 4, 2021. The Texas court did not receive notice until March 18, 2021, three days after issuing opinions and judgment in the related appeal. The remaining parties were not bankrupt, and Point Energy moved to sever Holland and reinstate the appeal as to those parties.

PROCEDURAL HISTORY

The appeal arose from the 143rd District Court of Loving County, Texas, in trial-court cause number 17-06-869. After the court issued a majority opinion, a concurring and dissenting opinion, and judgment on March 15, 2021, Holland notified the court that it had filed for Chapter 7 bankruptcy on February 4, 2021. The court withdrew the

prior opinions and judgment because the appeal had been automatically stayed, granted Point Energy's unopposed motion to sever Holland, and reinstated the appeal as to the remaining parties.

DISPOSITION

other

CASES CITED

- Kalb v. Feuerstein, 308 U.S. 433, 440 (1940)
- Marcus, Stowell & Beye Gov't Sec., Inc. v. Jefferson Inv. Corp., 797 F.2d 227, 230 n.4 (5th Cir. 1986)
- Howell v. Thompson, 839 S.W.2d 92, 92 (Tex. 1992)
- In re Southwestern Bell Tel. Co., 35 S.W.3d 602, 604 (Tex. 2000)
- Lisanti v. Dixon, 147 S.W.3d 638, 642 (Tex. App.—Dallas 2004, pet. denied)

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