

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

Meritage Homes v. Parshant Mudda & Shurti Mudda

No. 05-18-00934-CV (Tex. App.—Dallas July 3, 2019) · No. 05-18-00934-CV · Decided July 3, 2019

SUMMARY

The Fifth District Court of Appeals of Texas reversed the trial court’s denial of Meritage Homes’ motion to compel arbitration and plea in abatement. The court held that the homeowners’ claims fell within the arbitration provision in Meritage’s transferred limited warranty and that the non-signatory homeowners were bound under direct-benefits estoppel. Because related claims against other parties could be affected by the arbitration, the court remanded for abatement pending arbitration.

CASE DETAILS

|                       |                                                                                                                                                                                                                                     |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals of Texas, Fifth District at Dallas                                                                                                                                                                                 |
| WRITING FOR THE COURT | Robbie Partida-Kipness; Justice Whitehill; Justice Partida-Kipness; Justice Pedersen, III                                                                                                                                           |
| JURISDICTION          | Texas                                                                                                                                                                                                                               |
| DECIDED               | July 3, 2019                                                                                                                                                                                                                        |
| DOCKET                | 05-18-00934-CV                                                                                                                                                                                                                      |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Accelerated appeal from the denial of Meritage Homes' plea in abatement and motion to compel arbitration.                                                                                                                           |
| STANDARD OF REVIEW    | The denial of a motion to compel arbitration and a plea in abatement is reviewed for abuse of discretion. Factual determinations supported by evidence are reviewed deferentially, while legal determinations are reviewed de novo. |
| PRECEDENTIAL VALUE    | Memorandum opinion; the court stated that the issues were settled in law and cited Texas Rule of Appellate Procedure 47.4.                                                                                                          |
| PARTIES               | Meritage Homes v. Parshant Mudda, Shurti Mudda                                                                                                                                                                                      |

TOPICS

- arbitration
- construction defects
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the Muddas' claims against Meritage Homes fell within the scope of the Limited Warranty's arbitration provision.
2. Whether the Muddas, as nonsignatories to the Limited Warranty, were bound by its arbitration provision under direct-benefits estoppel.
3. Whether the litigation against nonarbitrating parties should be abated pending arbitration of the claims against Meritage Homes.

## HOLDINGS

1. The Muddas' negligent and intentional misrepresentation, breach of contract, common-law fraud, and respondeat superior claims against Meritage Homes fell within the broad scope of the Limited Warranty's arbitration provision.
2. The Muddas were bound by the arbitration provision under direct-benefits estoppel because they sought benefits under the Limited Warranty while attempting to avoid its arbitration requirement.
3. The litigation should be abated pending completion of arbitration because the arbitrated issues, including whether the Limited Warranty was void, could affect the liability of the nonarbitrating realtor and broker.

## KEY QUOTATIONS

*“A litigant who sues based on a contract subjects himself or herself to the contract’s terms.”* (5)

*“A nonparty cannot both have his contract and defeat it too.”* (5)

*“when an issue is pending in both arbitration and litigation . . . arbitration should be given priority to the extent it is likely to resolve issues material to [the] lawsuit.”* (6)

## FACTUAL BACKGROUND

Meritage Homes built and sold a residence in Irving, Texas, providing the original purchasers with a Limited Warranty that transferred to subsequent owners and required binding arbitration for disputes relating to the warranty, construction, or sale of the home. The Muddas purchased the residence in 2013 after learning of foundation issues and later notified Meritage Homes of alleged construction defects. After Meritage Homes questioned whether prior third-party foundation repairs voided warranty coverage, the Muddas sued Meritage Homes and others, asserting misrepresentation, breach of contract, and fraud claims.

## PROCEDURAL HISTORY

The Muddas sued Meritage Homes, the prior homeowners, a realtor, and the realtor's broker over alleged construction defects and warranty-related representations. Meritage Homes moved to compel arbitration and abate the litigation. After the trial court denied both requests, Meritage Homes filed an accelerated appeal. The court of appeals reversed and remanded.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The trial court must conduct further proceedings consistent with the opinion, including compelling arbitration of the Muddas' claims against Meritage Homes and abating the litigation pending completion of arbitration.

## CASES CITED

- Henry v. Cash Biz, LP, 551 S.W.3d 111, 115 (Tex. 2018)
- Rachal v. Reitz, 403 S.W.3d 840, 843 (Tex. 2013)
- In re Kellogg Brown & Root, Inc., 166 S.W.3d 732, 737–39 (Tex. 2005)
- In re FirstMerit Bank, N.A., 52 S.W.3d 749, 753–55 (Tex. 2001)
- In re Weekley Homes, L.P., 180 S.W.3d 127, 135 (Tex. 2005)
- Lagow v. Hamon, 384 S.W.3d 411, 415 (Tex. App.—Dallas 2012, no pet.)
- In re Merrill Lynch & Co., Inc., 315 S.W.3d 888, 891 (Tex. 2010) (per curiam)