

COURT OF APPEALS OF TEXAS, FOURTEENTH DISTRICT

Christina De La Torre v. AAG Properties, Inc.

No. 14-15-00874-CV (Tex. App.—Houston [14th Dist.] Dec. 22, 2015) (mem. op.) · No. No. 14-15-00874-CV ·
Decided December 22, 2015

SUMMARY

The Fourteenth Court of Appeals denied Christina De La Torre’s application for a permissive interlocutory appeal and dismissed the appeal. The court held that the trial court’s order permitting the appeal did not state the reasons for denying De La Torre’s no-evidence and traditional summary-judgment motion, and therefore did not demonstrate that the trial court had ruled on the substantive controlling legal issues. The court concluded that no legal issue was properly presented for appellate review under Texas Civil Practice and Remedies Code section 51.014(d).

CASE DETAILS

COURT	Court of Appeals of Texas, Fourteenth District
WRITING FOR THE COURT	Justice Boyce; Justice Busby; Justice Brown
JURISDICTION	Texas
DECIDED	December 22, 2015
DOCKET	No. 14-15-00874-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant petitioned for permission to take a permissive interlocutory appeal from an order denying her no-evidence and traditional motions for summary judgment. The court denied the application and dismissed the appeal.
STANDARD OF REVIEW	The court reviewed whether the statutory and procedural prerequisites for a permissive interlocutory appeal were satisfied, including whether the trial court had made a substantive ruling on the controlling legal issues.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is not independently verifiable from the provided text.
PARTIES	Christina De La Torre v. AAG Properties, Inc.

TOPICS

interlocutory appeal

appellate jurisdiction

summary judgment

appellate procedure

civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

real estate

employment law

QUESTIONS PRESENTED

1. Whether the court of appeals could accept a permissive interlocutory appeal from the denial of De La Torre's summary-judgment motion when the trial court's permission order identified controlling questions of law but did not state its reasons for denying summary judgment.
2. Whether the trial court must first make a substantive ruling on the controlling legal issues before a permissive interlocutory appeal may proceed.

HOLDINGS

1. A permissive interlocutory appeal is improper when the trial court has not first ruled on the substantive controlling legal issues identified in its permission order.

KEY QUOTATIONS

“(d) On a party’s motion or on its own initiative, a trial court in a civil action may, by written order, permit an appeal from an order that is not otherwise appealable if:” (at 2)

“Section 51.014(d) is not intended to relieve the trial court of its role in deciding substantive issues of law properly presented to it.” (at 3)

FACTUAL BACKGROUND

AAG Properties, a real estate investment company, employed Christina De La Torre as a licensed real estate agent for approximately two months without a written employment agreement. After De La Torre stopped working for AAG, AAG sued her over disputed commissions. De La Torre moved for both no-evidence and traditional summary judgment on AAG's claims.

PROCEDURAL HISTORY

AAG Properties sued De La Torre over disputed commissions after her employment ended. The 125th District Court of Harris County denied De La Torre's summary-judgment motion on September 29, 2015, and later permitted an interlocutory appeal. De La Torre petitioned the Fourteenth Court of Appeals for permission to appeal, but the appellate court concluded that the trial court had not ruled on the substantive controlling questions of law identified in its permission order.

DISPOSITION

dismissed

CASES CITED

- CMH Homes v. Perez, 340 S.W.3d 444, 447 (Tex. 2011)
- Tex. A & M Univ. Sys. v. Koseoglu, 233 S.W.3d 835, 840 (Tex. 2007)
- Hebert v. JJT Constr., 438 S.W.3d 139, 140 (Tex. App.—Houston [14th Dist.] 2014, no pet.)
- Humphreys v. Caldwell, 888 S.W.2d 469, 470 (Tex. 1994) (orig. proceeding) (per curiam)
- Gulf Coast Asphalt Co. v. Lloyd, 457 S.W.3d 539, 543-44 (Tex. App.—Houston [14th Dist.] 2015, no pet.)
- Borowski v. Ayers, 432 S.W.3d 344, 347 (Tex. App.—Waco 2013, no pet.)
- Double Diamond Del., Inc. v. Walkinshaw, No. 05-13-00893, 2013 WL 5538814, at *2 (Tex. App.—Dallas Oct. 7, 2013, no pet.) (mem. op.)
- Gulley v. State Farm Lloyds, 350 S.W.3d 204, 208 (Tex. App.—San Antonio 2011, no pet.)
- Bank N.Y. Mellon v. Guzman, 390 S.W.3d 593, 597 (Tex. App.—Dallas 2012, no pet.)

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