

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

PNC Bank, N.A. v. RPCG-GP I, LLC

No. 05-19-00411-CV · No. No. 05-19-00411-CV · Decided March 27, 2020

SUMMARY

The Fifth District Court of Appeals of Texas dismissed PNC Bank’s interlocutory appeal for want of jurisdiction. The court held that the appeal became moot after the trial court denied RPCG-GP I, LLC’s Rule 202 petition for pre-suit discovery, leaving no live controversy. The court concluded that neither exception to the mootness doctrine applied.

CASE DETAILS

COURT	Court of Appeals of Texas, Fifth District at Dallas
WRITING FOR THE COURT	Bill Pedersen, III; Justice Pedersen, III; Justice Reichel; Justice Carlyle
JURISDICTION	Texas
DECIDED	March 27, 2020
DOCKET	No. 05-19-00411-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Interlocutory appeal from an order denying PNC Bank's special appearance. The trial court subsequently denied RPCG-GP I, LLC's Rule 202 petition for pre-suit discovery, and PNC Bank appealed only the order denying its special appearance.
STANDARD OF REVIEW	Subject matter jurisdiction, including mootness, is reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum opinion; no reporter citation appears in the provided text
PARTIES	PNC Bank, N.A. v. RPCG-GP I, LLC

TOPICS

mootness subject matter jurisdiction interlocutory appeal appellate procedure personal jurisdiction

PRACTICE AREAS

civil procedure appellate procedure commercial litigation personal jurisdiction

QUESTIONS PRESENTED

1. Whether the interlocutory appeal from the order denying PNC Bank's special appearance became moot after the trial court denied the Rule 202 petition for pre-suit discovery.
2. Whether either the capable-of-repetition-yet-evading-review exception or the collateral-consequences exception to mootness permitted review despite the absence of a live controversy.

HOLDINGS

1. The appeal was moot because denial of the Rule 202 petition eliminated the only controversy between the parties, and a decision on the special appearance would no longer affect their rights.
2. Neither the capable-of-repetition-yet-evading-review exception nor the collateral-consequences exception applied because PNC Bank made no allegation bringing the special-appearance appeal within either exception.

KEY QUOTATIONS

“An appellate court is prohibited from deciding a moot controversy.” (at 2)

“This prohibition is rooted in the separation of powers doctrine in the Texas and United States Constitutions that prohibits courts from rendering advisory opinions.” (at 2)

“When the trial court denied appellee’s Rule 202 Petition, the controversy between the parties ceased to exist.” (at 3)

FACTUAL BACKGROUND

RPCG-GP I, LLC sought pre-suit discovery from PNC Bank under Texas Rule of Civil Procedure 202. PNC Bank, a nonresident corporation, challenged Texas personal jurisdiction through a special appearance. After the trial court denied the Rule 202 petition, no live controversy remained concerning the requested discovery.

PROCEDURAL HISTORY

RPCG-GP I, LLC filed a petition under Texas Rule of Civil Procedure 202 seeking pre-suit discovery from PNC Bank. PNC Bank filed a special appearance challenging personal jurisdiction and opposed the Rule 202 petition on the merits. The trial court denied the special appearance and then denied the Rule 202 petition the following day. The court of appeals dismissed the interlocutory appeal for want of jurisdiction because denial of the Rule 202 petition eliminated the parties' controversy.

DISPOSITION

dismissed

CASES CITED

- Tex. Nat. Resource Conservation Comm’n v. I.T.-Davy, 74 S.W.3d 849, 855 (Tex. 2002)
- Trulock v. City of Duncanville, 277 S.W.3d 920, 924 (Tex. App.—Dallas 2009, no pet.)

- Nat'l Collegiate Athletic Ass'n v. Jones, 1 S.W.3d 83, 86 (Tex. 1999)
- Heckman v. Williamson Cty., 369 S.W.3d 137, 162 (Tex. 2012)
- Gen. Land Office of State of Tex. v. OXY U.S.A., Inc., 789 S.W.2d 569, 571 (Tex. 1990)
- Texas A & M University–Kingsville v. Yarbrough, 347 S.W.3d 289, 290 (Tex. 2011)
- In re Sierra Club, 420 S.W.3d 153, 158 (Tex. App.—El Paso 2012, orig. proceeding)

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