

**COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS
CHRISTI–EDINBURG**

**Aschere Energy, LLC v. Eagle Lake Gas Company, LLC F/K/A
Coolangatta Joint Venture**

No. 13-19-00510-CV (Tex. App.—Corpus Christi–Edinburg May 13, 2021) · No. 13-19-00510-CV · Decided
May 13, 2021

SUMMARY

The Thirteenth Court of Appeals of Texas affirmed a Nueces County trial court's order concerning a post-judgment writ of garnishment obtained by Eagle Lake Gas Company against Aschere Energy. The court held that Aschere did not establish grounds to dissolve or modify the garnishment or to controvert the garnishee's verified answer, and it upheld findings that recorded mineral-interest assignments were fraudulent under Texas Civil Practice and Remedies Code chapter 12. The court also rejected Aschere's arguments concerning dominant jurisdiction and standing.

CASE DETAILS

COURT	Court of Appeals of Texas, Thirteenth District, Corpus Christi–Edinburg
WRITING FOR THE COURT	Gina M. Benavides; Justice Benavides; Justice Hinojosa; Justice Silva
JURISDICTION	Texas
DECIDED	May 13, 2021
DOCKET	13-19-00510-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Aschere appealed the trial court's judgment and order denying dissolution or modification of a post-judgment writ of garnishment, finding purported mineral-interest assignments fraudulent under Chapter 12 of the Texas Civil Practice and Remedies Code, and awarding statutory and exemplary damages and attorney's fees.
STANDARD OF REVIEW	The denial of a motion to dissolve a writ of garnishment was reviewed for abuse of discretion. The legal sufficiency challenge to the fraudulent-finding was reviewed by considering whether any evidence supported the finding, crediting evidence supporting the judgment if reasonable factfinders could do so and disregarding contrary evidence

	unless reasonable factfinders could not. The dominant-jurisdiction determination was also reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Aschere Energy, LLC v. Eagle Lake Gas Company, LLC f/k/a Coolangatta Joint Venture

TOPICS

civil procedure remedies standard of review appellate procedure commercial litigation

PRACTICE AREAS

civil procedure judgment enforcement mineral rights commercial litigation appellate procedure

QUESTIONS PRESENTED

1. Whether the post-judgment writ of garnishment should have been dissolved or modified because Aurora allegedly knew of third-party claims to the garnished funds.
2. Whether Aschere was entitled to contest Aurora's verified answer regarding alleged third-party claims.
3. Whether the purported mineral-interest assignments were supported by the evidence or were fraudulent claims filed to financially injure Eagle Lake.
4. Whether Eagle Lake lacked standing, was estopped from asserting fraud, or whether Colorado County had dominant or exclusive jurisdiction over matters concerning the assignments.

HOLDINGS

1. The trial court did not abuse its discretion by refusing to dissolve or modify the writ of garnishment because Eagle Lake established a valid, subsisting judgment and alleged that Aschere lacked sufficient property in Texas subject to execution, and Aschere did not dispute those allegations.
2. Aschere was not entitled to relief based on its claimed right to controvert Aurora's verified answer because it did not provide specific, properly admitted evidence establishing a third-party ownership claim, and the alleged third-party investors did not intervene.
3. The evidence was legally sufficient to support the trial court's finding that Aschere's purported assignments were fraudulent claims filed with intent to cause financial injury to Eagle Lake and to support the resulting Chapter 12 statutory and exemplary damages and attorney's fees.
4. The Nueces County trial court properly exercised jurisdiction over the garnishment proceeding because the Colorado County litigation was not inherently interrelated with the garnishment action and therefore did not acquire dominant or exclusive jurisdiction over it.

KEY QUOTATIONS

“Garnishment is a statutory proceeding whereby the property, money, or credits of a debtor in the possession of another are applied to the payment of a debt.” (at 6)

“When a dispute arises concerning title or ownership of the garnished property, the probative force of the garnishee’s answer is destroyed, and the issue must be “tried as in other cases.”” (at 7)

“Although the underlying facts are the same in this suit and the suit in Colorado County, that is where any relation ends.” (at 15)

FACTUAL BACKGROUND

Eagle Lake obtained an arbitration award of \$226,306.11 against Aschere after an arbitration panel found Aschere's self-dealing assignment of Eagle Lake's interest in the Coolangatta Mineral Prospect invalid. Following a foreclosure and sheriff's sale in Colorado County, Eagle Lake filed a post-judgment writ of garnishment in Nueces County to collect the remaining judgment. Aurora answered that it held \$63,185.43 and other payments for Aschere, while Aschere asserted that purported assignments to third-party investors created ownership claims to the garnished funds. The trial court found the assignments fraudulent, awarded Chapter 12 statutory and exemplary damages and attorney's fees, and denied Aschere's requested relief.

PROCEDURAL HISTORY

Eagle Lake obtained confirmation of an arbitration award and pursued collection against Aschere. After a Colorado County foreclosure and sheriff's sale, Eagle Lake filed a post-judgment garnishment proceeding in Nueces County against Aurora Resources Corporation, which answered that it held \$63,185.43 and other amounts for Aschere. The Nueces County trial court denied Aschere's motion to dissolve the writ and motion for new trial, later entered judgment awarding damages and attorney's fees based on fraudulent assignments, and the court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- *Jacobs v. Jacobs*, 448 S.W.3d 626, 631 (Tex. App.—Houston [14th Dist.] 2014, no pet.)
- *Wease v. Bank of Am.*, No. 05-14-00867-CV, 2015 WL 4051974, at *2 (Tex. App.—Dallas July 2, 2015, no pet.) (mem. op.)
- *Moroch v. Collins*, 174 S.W.3d 849, 864–65 (Tex. App.—Dallas 2005, pet. denied.)
- *Bank One, Tex., N.A. v. Sunbelt Savs., F.S.B.*, 824 S.W.2d 557, 558 (Tex. 1992) (per curiam)
- *Zeecon Wireless Internet, LLC v. Amer. Bank of Tex., N.A.*, 305 S.W.3d 813, 816 (Tex. App.—Austin 2010, no pet.)
- *Tenet Health Sys. Hosps. Dall., Inc. v. N. Tex. Hosp. Physicians Grp., P.A.*, 438 S.W.3d 190, 197 (Tex. App.—Dallas 2014, no pet.)
- *Beggs v. Fite*, 106 S.W.2d 1039, 1042 (Tex. 1939)
- *Bechem v. Reliant Energy Retail Servs., LLC*, 441 S.W.3d 839, 843 (Tex. App.—Houston [14th Dist.] 2014, no pet.)
- *Aycock v. EECU*, 510 S.W.3d 636, 639 (Tex. App.—El Paso 2016, no pet.)

- Nat'l Med. Fin. Servs., Inc. v. Irving Indep. Sch. Dist., 150 S.W.3d 901, 905 (Tex. App.—Dallas 2004, no pet.)
- Howell Petroleum Corp. v. Kramer, 647 S.W.3d 723, 725 (Tex. App.—Corpus Christi–Edinburg 1983, no pet.)
- Waffle House, Inc. v. Williams, 313 S.W.3d 796, 813 (Tex. 2010)
- Guardianship of Thomson, No. 13-20-00378-CV, 2021 WL 266112, at *1 (Tex. App.—Corpus Christi–Edinburg Jan. 21, 2021, no pet. h.) (mem. op.)
- Graham Central Station, Inc. v. Pena, 442 S.W.3d 261, 263 (Tex. 2014) (per curiam)
- Merrell Dow Pharms., Inc. v. Havner, 953 S.W.2d 706, 711 (Tex. 1997)
- Akin, Gump, Strauss, Hauer & Feld, L.L.P. v. Nat'l Dev. & Research Corp., 299 S.W.3d 106, 115 (Tex. 2009)
- City of Keller v. Wilson, 168 S.W.3d 802, 827 (Tex. 2005)
- In re Red Dot Bldg. Sys., Inc., 504 S.W.3d 320, 322 (Tex. 2016) (orig. proceeding) (per curiam)
- In re J.B. Hunt Transp., Inc., 492 S.W.3d 287, 293–94 (Tex. 2016) (orig. proceeding)
- Gonzalez v. Reliant Energy, Inc., 159 S.W.3d 615, 622 (Tex. 2005)
- Wyatt v. Shaw Plumbing Co., 760 S.W.2d 245, 248 (Tex. 1988)