

SUPREME COURT OF TEXAS

ConocoPhillips Co. v. Koopmann

547 S.W.3d 858 (Tex. 2018) · Decided March 23, 2018

SUMMARY

The Texas Supreme Court considered whether the common-law rule against perpetuities invalidated a future interest in a reserved nonparticipating royalty interest. The Court held that the rule did not invalidate the interest on the circumstances presented, but concluded that the reservation's savings clause was ambiguous and remanded for interpretation. The Court also held that Texas Natural Resources Code section 91.402 does not bar a lessor's common-law breach-of-contract claim and addressed attorney's fees under Texas Rule of Civil Procedure 91a.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Green
JURISDICTION	Texas
DECIDED	March 23, 2018
DISPOSITION	affirmed
PROCEDURAL POSTURE	The parties cross-appealed from summary judgments in a dispute concerning ownership and continuation of a reserved nonparticipating royalty interest. The Texas Supreme Court reviewed the court of appeals' judgment affirming in part, reversing in part, and remanding in part.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court takes as true evidence favorable to the nonmovant, indulges every reasonable inference in the nonmovant's favor, and resolves doubts in the nonmovant's favor. On cross-motions for summary judgment, each party bears the burden of establishing entitlement to judgment as a matter of law. Whether a deed or contract is ambiguous is a question of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	ConocoPhillips Company, Burlington Resources Oil & Gas Company, L.P. v. Karen Marie Koenig, Lorene H. Koopmann, Ralph Wade Koopmann

TOPICS

oil and gas

mineral rights

contracts

summary judgment

motions to dismiss

PRACTICE AREAS

oil and gas law

real property

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civil procedure

QUESTIONS PRESENTED

1. Whether the rule against perpetuities invalidated the Koopmanns' future interest in Strieber's reserved nonparticipating royalty interest.
2. Whether the savings clause in Strieber's reservation was ambiguous and whether the evidence established that the clause preserved Strieber's or Burlington's interest after the initial fifteen-year term.
3. Whether Texas Natural Resources Code section 91.402 barred the Koopmanns' common-law breach-of-contract claim based on withheld royalty payments.
4. Whether Burlington was entitled to attorney's fees under Texas Rule of Civil Procedure 91a as the prevailing party on its motion to dismiss after later prevailing on summary judgment.

HOLDINGS

1. In the oil-and-gas context, the rule against perpetuities does not invalidate a future interest created by reservation when the holder is ascertainable and the preceding defeasible term estate is certain to terminate.
2. The savings clause is ambiguous as a matter of law because the phrase "other similar payments" is reasonably susceptible to more than one interpretation; the issue of the parties' intent must therefore be resolved by the factfinder.
3. Section 91.402 does not preclude a lessor's common-law breach-of-contract claim based on a controlling lease absent clear legislative intent to abrogate that claim.
4. A party that loses its Rule 91a motion to dismiss is not transformed into the prevailing party on that motion merely because it later prevails on summary judgment asserting similar arguments.

KEY QUOTATIONS

"We limit our holding to future interests in the oil and gas context in which the holder of the interest is ascertainable and the preceding estate is certain to terminate." (547 S.W.3d at 873)

"absent clear language from the Legislature indicating an intent to abrogate a common law cause of action, we cannot hold that section 91.402 precludes their claim for breach of contract." (547 S.W.3d at 879)

"Rule 91a provides that 'a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact.'" (547 S.W.3d at 880)

FACTUAL BACKGROUND

In 1996, Lois Strieber conveyed a 120-acre tract to Lorene Koopmann and her husband while reserving a one-half nonparticipating royalty interest for fifteen years and as long thereafter as minerals were produced in paying or commercial quantities. The tract was later leased, pooled into Lackey Unit A, and the lease's primary term was extended by a \$24,000 payment, but no actual production occurred before the initial fifteen-year reservation period expired on December 27, 2011. Burlington also tendered payments characterized as shut-in royalties, although the parties disputed whether a well capable of production existed at that time. The Koopmanns sought a declaration concerning ownership of the royalty interest and asserted breach-of-contract and other claims based on Burlington's suspension of royalty payments.

PROCEDURAL HISTORY

The trial court granted the Koopmanns' motion for summary judgment on the declaratory claims, concluding that the reserved royalty interest had expired and that the Koopmanns were entitled to royalty payments. It later granted Burlington summary judgment on the nondeclaratory claims, while awarding the Koopmanns attorney's fees under Texas Rule of Civil Procedure 91a. The court of appeals held that the rule against perpetuities did not invalidate the Koopmanns' future interest, held the savings clause ambiguous and remanded for further proceedings, reinstated the breach-of-contract claim, affirmed dismissal of several tort and restitution claims under the economic-loss rule, and affirmed the Rule 91a fee award. The Texas Supreme Court affirmed those portions of the court of appeals' judgment presented for review.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded for a jury to determine the meaning and application of the ambiguous savings clause, including whether the relevant payment and well-capability requirements were satisfied and consequently who owned the nonparticipating royalty interest.

CASES CITED

- Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211 (Tex. 2003)
- City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)
- Bagby v. Bredthauer, 627 S.W.2d 190 (Tex. Civ. App.-Austin 1981, no writ)
- Peveto v. Starkey, 645 S.W.2d 770 (Tex. 1982)
- BP Am. Prod. Co. v. Laddex, Ltd., 513 S.W.3d 476 (Tex. 2017)
- El Dorado Land Co., L.P. v. City of McKinney, 395 S.W.3d 798 (Tex. 2013)
- Luckel v. White, 819 S.W.2d 459 (Tex. 1991)
- Rosson v. Bennett, 294 S.W. 660 (Tex. 1927)
- Kettler v. Atkinson, 383 S.W.2d 557 (Tex. 1964)
- Cherokee Water Co. v. Forderhause, 641 S.W.2d 522 (Tex. 1982)
- Amoco Prod. Co. v. Braslau, 561 S.W.2d 805 (Tex. 1978)

- J. Hiram Moore, Ltd. v. Greer, 172 S.W.3d 609 (Tex. 2005)
- Heritage Res., Inc. v. NationsBank, 939 S.W.2d 118 (Tex. 1996)
- BP Am. Prod. Co. v. Red Deer Res., LLC, 526 S.W.3d 389 (Tex. 2017)
- Cash Am. Int'l, Inc. v. Bennett, 35 S.W.3d 12 (Tex. 2000)
- Forest Oil Corp. v. El Rucio Land & Cattle Co., Inc., 518 S.W.3d 422 (Tex. 2017)
- Waffle House, Inc. v. Williams, 313 S.W.3d 796 (Tex. 2010)
- City of Dallas v. Sanchez, 494 S.W.3d 722 (Tex. 2016) (per curiam)
- In re Essex Ins. Co., 450 S.W.3d 524 (Tex. 2014)

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