

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

Ronnie Lee Natho, Sr. v. Rosie May Shelton

Natho · No. 03-11-00661-CV · Decided July 2, 2014

SUMMARY

The Texas Court of Appeals partially reformed and affirmed a judgment awarding appellee actual and exemplary damages. The court reversed and rendered the portions awarding attorney's fees and imposing a constructive trust on appellant's homestead, and reduced the actual damages award pursuant to appellee's remittitur.

CASE DETAILS

COURT	Texas Court of Appeals, Third District, at Austin
WRITING FOR THE COURT	David Puryear, Justice; Justice Pemberton; Justice Rose
JURISDICTION	Texas
DECIDED	July 2, 2014
DOCKET	03-11-00661-CV
DISPOSITION	other
PROCEDURAL POSTURE	Supplemental opinion resolving the effect of appellee's timely remittitur after the court's prior memorandum opinion reversed and rendered in part and suggested a remittitur of actual damages.
PRECEDENTIAL VALUE	published
PARTIES	Ronnie Lee Natho, Sr. v. Rosie May Shelton

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. What judgment should the appellate court render after appellee timely filed the suggested remittitur of \$54,199.89?

2. Whether the district court's awards of attorney's fees and a constructive trust on appellant's homestead should be reversed and rendered for appellee to take nothing.
3. Whether the actual-damages award should be reformed to \$33,096.11 after the remittitur.

HOLDINGS

1. Because appellee timely filed the suggested remittitur of \$54,199.89, the court reformed the actual-damages award from \$87,296.00 to \$33,096.11 and affirmed the award as reformed.
2. Appellee was not entitled to attorney's fees, so the district court's attorney's-fees award was reversed and judgment was rendered that appellee take nothing on that claim.
3. Appellee was not entitled to a constructive trust on Natho's homestead, so that portion of the district court's judgment was reversed and judgment was rendered that appellee take nothing on the claim.

KEY QUOTATIONS

“Accordingly, we (1) reverse the district court’s judgment awarding appellee attorney’s fees and a constructive trust on Natho’s homestead and render that appellee take nothing on those claims; (2) reform the actual damages portion of the judgment of the district court to award appellee \$33,096.11 in actual damages instead of the original \$87,296.00 awarded and, as so reformed, affirm its judgment on that claim; and (3) affirm the district court’s judgment in all other respects.” (at 2)

FACTUAL BACKGROUND

The district court awarded Rosie May Shelton \$87,296.00 in actual damages, \$20,000 in exemplary damages, and \$35,000 in attorney's fees against Ronnie Lee Natho, Sr. The appellate court previously determined that the evidence was insufficient to support the full amount of actual damages and that Shelton was not entitled to attorney's fees or a constructive trust on Natho's homestead. Shelton then filed the court-suggested remittitur of \$54,199.89.

PROCEDURAL HISTORY

The Llano County district court entered judgment awarding appellee \$87,296.00 in actual damages, \$20,000 in exemplary damages, and \$35,000 in attorney's fees. The appellate court's May 30, 2014 memorandum opinion reversed and rendered judgment denying attorney's fees and a constructive trust on appellant's homestead and held that the evidence did not support the full actual-damages award. After appellee filed the suggested \$54,199.89 remittitur, the court reformed actual damages to \$33,096.11, affirmed that award as reformed and affirmed the judgment in all other respects.

DISPOSITION

other

OPINION

PER CURIAM.

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN NO. 03-11-00661-CV Ronnie Lee Natho, Sr., Appellant v. Rosie May Shelton, Appellee FROM THE DISTRICT COURT OF LLANO COUNTY, 424TH JUDICIAL DISTRICT NO. 16226, HONORABLE DANIEL H. MILLS, JUDGE PRESIDING SUPPLEMENTAL OPINION On September 8, 2011, the district court entered judgment against appellant, awarding appellee \$87,296.00 in actual damages, \$20,000 in exemplary damages, and \$35,000 in attorney's fees.

On May 30, 2014, we issued a memorandum opinion reversing and rendering judgment that appellee is not entitled to attorney's fees or a constructive trust on Natho's homestead and holding that the evidence was insufficient to support the full amount of actual damages awarded.

We therefore suggested a remittitur in the amount of \$54,199.89 and informed the parties that if appellee timely filed a remittitur in that amount with the district court, we would reform the portion of the trial court's judgment awarding actual damages and accordingly affirm that portion of the judgment, as reformed, and affirm the judgment in all other respects except those on which we reversed and rendered judgment.

Appellee has informed this Court that it has filed a remittitur of \$54,199.89 with the clerk of the district court. Accordingly, we (1) reverse the district court's judgment awarding appellee attorney's fees and a constructive trust on Natho's homestead and render that appellee take nothing on those claims; (2) reform the actual damages portion of the judgment of the district court to award appellee \$33,096.11 in actual damages instead of the original \$87,296.00 awarded and, as so reformed, affirm its judgment on that claim; and (3) affirm the district court's judgment in all other respects. _____ David Puryear, Justice Before

Justices Puryear, Pemberton, and Rose Affirmed in part; Reformed in part and, as Reformed, Affirmed; Reversed and Rendered in part Filed: July 2, 2014 2