

COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT
AMARILLO

Llano Royalty, Ltd. v. Charlie Cummings and Jo Cummings

No. 07-08-0262-CV (Tex. App.—Amarillo May 12, 2009) · No. 07-08-0262-CV · Decided May 12, 2009

SUMMARY

The Texas Court of Appeals for the Seventh District granted the parties’ joint motion to remand after they represented that they had settled their dispute concerning the status of an oil and gas lease. The court set aside the trial court’s judgment without reaching the merits and remanded for further proceedings to effectuate the settlement.

CASE DETAILS

COURT	Court of Appeals for the Seventh District of Texas at Amarillo
WRITING FOR THE COURT	Campbell, J.; Hancock, J.; Pirtle, J.
JURISDICTION	Texas
DECIDED	May 12, 2009
DOCKET	07-08-0262-CV
DISPOSITION	vacated
PROCEDURAL POSTURE	Interlocutory settlement-related appellate disposition on the parties' joint motion to remand before submission of the merits.
PRECEDENTIAL VALUE	Published memorandum opinion; the court did not reach the merits of the oil and gas lease dispute.
PARTIES	Llano Royalty, Ltd. v. Charlie Cummings

TOPICS

- appellate procedure
- civil procedure
- oil and gas
- attorney fees
- costs

PRACTICE AREAS

- appellate procedure
- civil procedure
- oil and gas
- real estate

QUESTIONS PRESENTED

1. Whether the court of appeals should grant the parties' joint motion to remand, set aside the trial court's judgment without reaching the merits, and permit the trial court to render judgment in accordance with

the settlement agreement.

HOLDINGS

1. The court granted the joint motion, set aside the trial court's judgment without passing on the merits, and remanded the case for further proceedings so the trial court could effectuate the settlement agreement.

FACTUAL BACKGROUND

The dispute concerned the status of an oil and gas lease. The trial court determined that the lease had terminated and awarded attorney's fees to Charlie Cummings. Before the appeal was submitted on the merits, the parties represented that they had settled and requested remand to effectuate their agreement.

PROCEDURAL HISTORY

The 47th District Court of Potter County entered judgment for Charlie Cummings, determining that an oil and gas lease had terminated and awarding attorney's fees. Llano Royalty perfected an appeal. Before submission on the merits, the parties filed a joint motion to remand based on a settlement and requested that the appellate court set aside the trial court's judgment and remand for rendition of judgment consistent with their agreement.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court was to conduct further proceedings and render judgment in accordance with the parties' settlement agreement.

CASES CITED

- Sutton v. Horseshoe Hills Ltd., 278 S.W.3d 923 (Tex. App.—Houston [14th Dist.] 2009, no pet.)
- Vigil v. Montero, 225 S.W.3d 271 (Tex. App.—El Paso 2006, no pet.)

OPINION

PER CURIAM.

NO. 07-08-0262-CV IN THE COURT OF APPEALS FOR THE SEVENTH DISTRICT OF TEXAS AT AMARILLO PANEL A MAY 12, 2009 _____ LLANO ROYALTY, LTD., APPELLANT V. CHARLIE CUMMINGS, APPELLEE _____ FROM THE 47TH DISTRICT COURT OF POTTER COUNTY; NO. 94,302-A; HONORABLE HAL MINER, JUDGE _____ Before CAMPBELL and HANCOCK and PIRTLE, JJ.
MEMORANDUM OPINION This case involves a dispute over the status of an oil and gas lease.

The trial court entered a judgment in favor of Appellee, Charlie Cummings, that the lease had terminated and also awarded attorney's fees. Appellant, Llano Royalty, Ltd., perfected this appeal. Prior to submission of the merits of the appeal Llano Royalty, Ltd. and Charlie Cummings filed a Joint Motion to Remand. By the motion, the parties represent they have reached an agreement to settle and compromise their differences.

They request this Court set aside the trial court's judgment without regard to the merits and remand the case to the trial court for rendition of judgment in accordance with their agreement. To accord the trial court with jurisdiction to accomplish the relief requested by the parties and effectuate the settlement agreement, we grant the motion and, without passing on the merits of the appeal, set aside the trial court's judgment and remand the cause for further proceedings.

See Tex. R. App. P. 42.1(a)(2)(B). See also Sutton v. Horseshoe Hills Ltd., 278 S.W.3d 923 (Tex.App.–Houston [14th Dist. 2009, no pet.]; Vigil v. Montero, 225 S.W.3d 271 (Tex.App.–El Paso 2006, no pet.). Pursuant to the motion, costs are taxed against the party by whom incurred.

Having set aside the judgment at the request of the parties, no motion for rehearing will be entertained and our mandate will issue forthwith. Patrick A. Pirtle Justice