

COURT OF CIVIL APPEALS OF TEXAS, AUSTIN

C. V. Wynn et al. v. State of Texas

295 S.W.2d 444 (Tex. Civ. App. 1956) · No. No. 10454 · Decided October 31, 1956

SUMMARY

The Texas Court of Civil Appeals considered whether venue was proper in Travis County for the State's fraud and rescission action involving land located in Maverick County. The court held that the plaintiff failed to prove fraud committed in Travis County and that the suit affected title to land, requiring transfer to Maverick County under subdivision 14 of Article 1995.

CASE DETAILS

COURT	Court of Civil Appeals of Texas, Austin
WRITING FOR THE COURT	Archer, Chief Justice
JURISDICTION	Texas
DECIDED	October 31, 1956
DOCKET	No. 10454
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the district court overruling H. S. Lebman and Minnie Lebman's pleas of privilege seeking transfer of the action to Maverick County, where the land was located.
STANDARD OF REVIEW	The appellate court reviewed whether the plaintiff proved venue facts supporting Travis County venue over the pleas of privilege; the plaintiff bore the burden of proving the venue facts, and pleadings alone did not constitute proof.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	C. V. Wynn, Eloise Wynn, H. S. Lebman, Minnie Lebman v. State of Texas

TOPICS

- venue
- title disputes
- rescission
- foreclosure
- civil procedure

PRACTICE AREAS

- civil procedure
- real estate
- remedies

QUESTIONS PRESENTED

1. Whether the State proved that the Lebmans committed fraud in Travis County so that venue could be maintained there under subdivision 7 of Article 1995.
2. Whether the action was one affecting title to land in Maverick County and therefore subject to mandatory venue in that county under subdivision 14 of Article 1995.
3. Whether the trial court erred in overruling the Lebmans' pleas of privilege.

HOLDINGS

1. The State failed to prove that either H. S. Lebman or Minnie Lebman committed fraud in Travis County; merely showing that fraud occurred, without proving where it occurred, was insufficient to establish venue under subdivision 7.
2. The action affected title to land located in Maverick County, making subdivision 14 controlling and requiring trial in Maverick County when a necessary defendant properly objected to venue elsewhere.

KEY QUOTATIONS

“We believe that this case is one affecting the title to land located in Maverick County, Texas, within the purview of subdivision 14 of Article 1995.” (448)

“The judgment of the trial court is reversed and the cause ordered transferred to the District Court of Maverick County, Texas.” (448)

FACTUAL BACKGROUND

The State alleged that the promotion defendants fraudulently represented to the Veterans' Land Board in Travis County that veteran defendants wished to purchase tracts in Maverick County. Relying on the alleged misrepresentations, the Board issued 22 warrants totaling \$151,054.30, accepted deeds to the land, and entered contracts of sale with the veteran defendants. The State sought rescission of the transactions, restitution, liens, foreclosure, and related relief. At the venue hearing, the evidence did not show that the Lebmans or their agents filed the relevant instruments in Travis County or committed fraud there.

PROCEDURAL HISTORY

The State of Texas sued the Wynns, the Lebmans, and other defendants in Travis County, alleging fraud in connection with Veterans' Land Board transactions and seeking rescission, restitution, liens, foreclosure, and related relief. The Lebmans filed pleas of privilege asserting that venue was mandatory in Maverick County under subdivision 14 of Article 1995 because the action affected land located there. The trial court overruled the pleas, and the Court of Civil Appeals reversed and ordered the cause transferred to the District Court of Maverick County.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Transfer the cause to the District Court of Maverick County, Texas, for trial on the merits.

CASES CITED

- Texas & Pac. Ry. Co. v. Wood, 145 Tex. 534, 199 S.W.2d 652
- Compton v. Elliott, 126 Tex. 232, 88 S.W.2d 91
- Old Lincoln County Mutual Fire Insurance Co. v. Hall, 214 S.W.2d 203 (Tex. Civ. App.)
- South Texas Development Co. v. Williams, 130 Tex. 217, 107 S.W.2d 378, 379
- Jones v. Ford, 118 S.W.2d 333 (Tex. Civ. App.)
- Galindo v. Garcia, 222 S.W.2d 477 (Tex. Civ. App.)
- Hawkins v. Campbell, 226 S.W.2d 891 (Tex. Civ. App.)