Dismissed and Opinion Filed March 15, 2024

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-21-01172-CV

VETRI VENTURES, LLC, Appellant
V.
WESTRIDGE EAGLES NEST OWNERS ASSOCIATION, Appellee

On Appeal from the 429th Judicial District Court
Collin County, Texas
Trial Court Cause No. 429-02865-2019

MEMORANDUM OPINION

Before Justices Pedersen, III, Garcia, and Kennedy
Opinion by Justice Pedersen, III

In this appeal involving a homeowner association and one of its members, appellant argues this Court lacks jurisdiction to hear the merits of this appeal because the trial court's judgment is void. We agree with appellant. Consequently, we set aside the judgment, remand the case to the trial court for further proceedings, and dismiss the appeal.

BACKGROUND[1]

Appellee Westridge Eagles Nest Owners Association is a homeowner association, and appellant Vetri Ventures, LLC, is a member of the association. The association's governing document requires members to pay assessments to the association. The parties disputed association assessments and related costs charged to appellant. Appellant filed this lawsuit, alleging violation of the Texas Finance Code and a claim of money had and received. Moreover, appellant alleged a claim for violation of rule 736 of the Texas Rules of Civil Procedure for appellee's seeking to foreclose a lien in another lawsuit.[2] Appellant sought damages, injunctive relief, declaratory relief, and attorney's fees.

The case was tried to the trial court. Judge Jill Renfro Willis is the presiding judge of the trial court below. However, Judge Carmen Rivera-Worley, a senior judge, presided over the bench trial on April 6, 2021. At the conclusion of trial proceedings, Judge Rivera-Worley did not rule from the bench.

On May 24, 2021, trial court's docket sheet stated,

---

[1] As this is a memorandum opinion and because all issues of law presented by this case are well settled and the parties are familiar with the facts, we will not recite the facts in this opinion except as necessary to advise the parties of the Court's decision and the basic reasons for it. *See* TEX. R. APP. P. 47.4; *Hinojosa v. Gen. Packaging Corp.*, No. 05-99-01596-CV, 2000 WL 694816, at *1 (Tex. App.—Dallas May 31, 2000, no pet.) (mem. op.); *see also Buentello v. Cisneros*, No. 13-06-00152-CV, 2006 WL 1280490, at *1 n.1 (Tex. App.—Corpus Christi–Edinburg May 11, 2006, no pet.) (mem. op.).

[2] *See* TEX. R. CIV. P. 736; *see also* TEX. R. CIV. P. 735.1 (stating rule 736 provides the procedure for obtaining a court order, when required, to allow foreclosure of a lien containing a power of sale in the security instrument, dedicatory instrument, or declaration creating a lien that secures certain obligations).

General Docket Entry

> Having considered the pleadings, exhibits and argument of counsel, the Court denies the relief requested by Plaintiff. Defendant is awarded attorney[']s fees in the declaratory judgment action.

On May 25, 2021, the court administrator of the trial court sent an email to the parties' counsel, stating,

> The following is Judge Carmen Rivera-Worley's ruling from the April 6 trial in the above-referenced cause: Having considered the pleadings, exhibits and argument of counsel, the Court denies the relief requested by Plaintiff. Defendant is awarded attorney's fees in the declaratory judgment action.
>
> Please submit a proposed order reflecting that ruling for the Court to sign.

Subsequently, the trial court requested a hearing on entry of final judgment. Judge Willis heard argument on November 12, 2021. Appellee's counsel argued the senior judge did not render final judgment, stating,

> I don't think it was actually rendered because the Court [the senior judge] didn't tell us how much in attorney's fees. It just said attorney's fees. And the only claim that we had for attorney's fees was pursuant to the declaratory judgment action, which, of course, is in the discretion of the Court. So I don't know what her discretion was going to be, whether it was going to be all of them, some of them, you know, a dollar, or the $76,000 that I testified to.

The trial court queried whether Judge Rivera-Worley might hear additional evidence offered to prove and segregate attorney's fees. Appellee's counsel responded she lacked client authority to agree to the trial court's hearing additional evidence. The trial court adjourned the hearing without pronouncing a ruling.

On November 15, 2021, Judge Willis signed a "final judgment." It provided appellant take nothing on all claims it alleged against appellee. It awarded appellee attorney's fees. But unlike the docket entry or email, it specified an amount of attorney's fees awarded to appellee—$34,429.54.

Subsequently, Judge Willis signed original findings of fact and conclusions of law. Judge Rivera-Worley signed amended findings of fact and conclusions of law.

Plaintiff filed a notice of appeal. This appeal followed.

APPELLANT'S FIRST APPELLATE ISSUE

Appellant states its first issue on appeal as follows: "Does the Court have jurisdiction of this appeal?" Appellant argues this Court lacks jurisdiction to hear the merits of this appeal because the trial court's judgment is void.

THE PARTIES' ARGUMENTS

Appellant argues the final judgment is void because, "Judge Willis did not hear any part of the trial but signed the Final Judgment granting attorney's fees that Judge Rivera-Worley did not memorialize prior to the final judgment." Appellant relies on this Court's opinion, *Masa Custom Homes, LLC v. Shahin*, 547 S.W.3d 332 (Tex. App.—Dallas 2018, no pet.). Appellee also relies on *Masa Custom Homes, LLC*, and argues, "As evidenced by the Docket Entry and the email correspondence to the parties, Judge Rivera-Worley's ruling was rendered and memorialized in the

email and docket entry, which was merely memorialized by the judgment signed by Judge Willis. As such, this Court has jurisdiction to hear this case."

APPLICABLE LAW

The rendition of judgment is a present act, either by spoken word or signed memorandum, which decides the issues upon which the ruling is made. *See Luna v. Bennett*, No. 05-16-00878-CV, 2018 WL 5993902, at *2 (Tex. App.—Dallas Nov. 15, 2018, no pet.) (mem. op.) (citing *S&A Rest. Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex. 1995) (per curiam)); *see also Coleman v. Zapp*, 151 S.W. 1040, 1041 (Tex. 1912). Generally, a judgment is rendered when the decision is officially announced in open court, by memorandum filed with the clerk, or otherwise announced publicly. *See Bailey-Mason v. Mason*, 122 S.W.3d 894, 897 (Tex. App.—Dallas 2003, pet. denied) (citing *Garza v. Tex. Alcoholic Beverage Comm'n*, 89 S.W.3d 1, 6 (Tex. 2002)); *see also Comet Aluminum Co. v. Dibrell*, 450 S.W.3d 56, 58 (Tex. 1970).

Ordinarily, a judge who does not hear any evidence in a case lacks authority to render a judgment. *See In re L.K.K.*, No. 11-07-00106-CV, 2008 WL 4173742, at *3 (Tex. App.—Eastland Sept. 11, 2008, pet. denied) (mem. op.). However, a judge who did not preside over a bench trial may sign the final written judgment in the case so long as the written judgment merely memorializes an earlier final judgment rendered by the judge who heard the evidence. *See Masa Custom Homes, LLC*, 547 S.W.3d at 336.

When a judge has no authority to render an order or judgment, that order or judgment is void. *See In re Catapult Realty Cap. v. Johnson*, No. 05-19-01056-CV, 2020 WL 831611, at *5 (Tex. App.—Dallas Feb. 20, 2020, orig. proceeding and no pet.) (mem. op.) (combined orig. proceeding and appeal). An appellate court has no jurisdiction to consider the merits of an appeal of a void order or judgment. *See Masa Custom Homes, LLC*, 547 S.W.3d at 338 (citing *Freedom Commc'ns, Inc. v. Coronado*, 372 S.W.3d 621, 623 (Tex. 2012)). Rather, we have jurisdiction to determine whether an order or judgment underlying the appeal is void and to make appropriate orders based on that determination. *See Freedom Commnc'ns, Inc.*, 372 S.W.3d at 623.

ANALYSIS

In light of the applicable law and the parties' arguments, we consider whether, (1) the docket entry was a rendition of judgment; (2) the email was a rendition of judgment; (3) the final judgment was a "mere memorialization" of the docket entry or email.

The Docket Entry

A docket entry is a memorandum made for the convenience of the trial court and the court clerk. *See Bailey-Mason*, 122 S.W.3d at 897 (citing *Energo Int'l Corp. v. Mod. Indus. Heating, Inc.*, 722 S.W.2d 149, 151 (Tex. App.—Dallas 1986, no writ)). This Court's precedent recognizes that docket sheet entries are inherently unreliable because they lack the formality of orders and judgments. *See In re*

DeMattia, No. 05-21-00460-CV, 2021 WL 5480680, at *1 (Tex. App.—Dallas Nov. 23, 2021, orig. proceeding) (mem. op.) (citing *Bailey–Mason*, 122 S.W.3d at 897). For that reason, a docket sheet entry standing alone typically cannot constitute a judgment or decree of a court. *See id.* For a docket sheet to constitute an order of the court, there must be some indication in the record that the trial judge did not intend to enter a formal order but instead intended to rely on the docket entry as the sole judgment or decree of the court. *See id.* Such circumstances might be present where the trial court announces its decision in open court while calling the attention of the parties to the docket entry or formally files the docket entry with the clerk as the trial court's judgment. *See id.* (citing *Formby's KOA v. BHP Water Supply Corp.*, 730 S.W.2d 428, 430 (Tex. App—Dallas 1987, no writ)); *see also Garza*, 89 S.W.3d at 7 (district court's initialed, hand-written entry on docket sheet reciting the court's determination was not a rendition of judgment absent evidence that the court had publicly announced rendition or issued a memorandum thereof).

We conclude the May 24, 2021 docket entry was not rendition of judgment. The record below contains no indication that Judge Rivera-Worley did not intend to enter a formal order but intended the docket entry to be the sole judgment of the court. *See In re DeMattia*, 2021 WL 5480680, at *1. For example, Judge Rivera-Worley did not announce a decision in open court while calling the parties attention to the docket entry. *See id.* Nor does the appellate record reflect that Judge Rivera-Worley filed the docket entry with the clerk as the judgment. *See id.* There is no

evidence Judge Rivera-Worley publicly announced a decision or issued a memorandum. *See Garza*, 89 S.W.3d at 7.

The Email

"A written or oral ruling shared only with the parties or their counsel in a nonpublic forum is not a public announcement of the court's decision and, therefore, does not constitute a rendition of judgment." *Baker v. Bizzle*, No. 22-0242, 2024 WL 875451, at *1 (Tex. March 1, 2024). In *Baker*, the court sent an email to the parties' attorneys. *See id*. Moreover, the trial court in *Baker* failed to copy the court clerk on the email or otherwise submit it to the clerk for filing or entry in the record. *See id*. at *2. The "narrow" issue in *Baker* was whether the trial court's email qualified as a rendition of judgment. *Id.* at *4. *Baker* concluded, "without deciding whether the October 4 email was substantively sufficient as a present, complete, and final decision, we find the email fatally deficient as a rendition of judgment because there was no judicial action to publicly announce the court's decision on the matters at issue." *Id.* at *6. "Public announcement does not refer to judicial actions that only give notice to the parties or their counsel; it requires judicial action intended to make the decision accessible to the general public." *Id*.

The email in this case shares the deficiencies associated with the email in *Baker*. The email was sent only to the parties' counsel. The trial court did not orally announce, in open court, its decision on the issues addressed in the court administrator's email. Nor did the court deliver the email to the clerk of the court for

filing, entry, or inclusion in the public record or take any actions reasonably calculated to effectuate such delivery. The record contains no evidence that Judge Rivera-Worley took judicial action intended to make the decision accessible to the general public.

Consequently, we conclude the email was not a rendition of judgment. *See id.* at *7.

Mere Memorialization?

As noted, appellee argues the docket entry and email were renditions of Judge Rivera-Worley's judgment which Judge Willis "merely memorialized" in the final judgment. Appellee cites to this Court's precedent, which provides, "[A] judge who did not preside over a bench trial may sign the final written judgment in the case so long as the written judgment merely memorializes an earlier final judgment rendered by the judge who heard the evidence." *Masa Custom Homes, LLC*, 547 S.W.3d at 336.

Notably, *Masa Custom Homes, LLC*, expressly requires existence of a rendered judgment capable of mere memorialization by a subsequent final judgment. However, we have concluded neither the docket entry nor the email constitute rendered judgments. Consequently, the docket entry and email were not earlier rendered judgments capable of being "merely memorialized" as sometimes allowed

by *Masa Custom Homes, LLC*. It follows that Judge Willis's final judgment could not have merely memorialized the docket entry or email.

Accordingly, we reject appellee's argument that Judge Willis was authorized pursuant to *Masa Custom Homes, LLC,* to sign the November 15, 2021 final judgment on grounds that it merely memorialized the docket entry and email. Rather, Judge Willis's final judgment is void. *See Masa Custom Homes, LLC,* 547 S.W.3d at 338; *In re Catapult Realty Cap., L.L.C.*, 2020 WL 831661, at *5. We have no jurisdiction to consider the merits of an appeal of a void order or judgment. *See Masa Custom Homes, LLC,* 547 S.W.3d at 338 (citing *Freedom Commnc'ns, Inc.*, 372 S.W.3d 623).

We affirm appellant's first appellate issue.[3]

CONCLUSION

Because we conclude the judgment rendered by Judge Willis is void, we have no jurisdiction to consider the merits of this appeal. Accordingly, we set aside the judgment, remand the case to the trial court for further proceedings, and dismiss the appeal.

211172f.p05

/Bill Pedersen, III//
BILL PEDERSEN, III
JUSTICE

[3] Due to our disposition of appellant's first appellate issue, we need not and do not decide appellant's second, third, or fourth appellate issues.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

VETRI VENTURES, LLC, Appellant No. 05-21-01172-CV V. WESTRIDGE EAGLES NEST OWNERS ASSOCIATION, Appellee	On Appeal from the 429th Judicial District Court, Collin County, Texas Trial Court Cause No. 429-02865-2019. Opinion delivered by Justice Pedersen, III. Justices Garcia and Kennedy participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED** for want of jurisdiction.

It is **ORDERED** that appellant VETRI VENTURES, LLC recover its costs of this appeal from appellee WESTRIDGE EAGLES NEST OWNERS ASSOCIATION.

Judgment entered this 15th day of March, 2024.