Opinion issued July 7, 2022

In The

Court of Appeals

For The

First District of Texas

NO. 01-20-00188-CV

2017 YALE DEVELOPMENT, INC., 2017 YALE DEVELOPMENT, GP, LLC, BRAD PARKER AND TAX RELIEF, INC., Appellants

V.

STEADFAST FUNDING, LLC, CARL MARC SHERRIN, INITRAM, INC., LIBERTY TRUST COMPANY, LTD, ETERNAL INVESTMENTS, LLC, BRUCE L. ROBINSON, DALE PILGERAM, TRUSTEE OF THE PILGERAM FAMILY TRUST, JOSEPH C. HIBBARD, RJL REALTY, LLC, KORNELIA PEASLEY-BROWN, SALVADOR BALLESTEROS, MARGARET M. SERRANO-FOSTER, TRUSTEE OF THE MARGARET M. SERRANO-FOSTER TRUST DATED 12/2/2005, RICHARD R. METLER, TRUSTEE OF THE RICHARD R. METLER REVOCABLE LIVING TRUST, JAMES T. SMITH, TRUSTEE OF THE JAMES T. SMITH TRUST, LIBERTY TRUST COMPANY LTD, CUSTODIAN FBO VINCENT PAUL MAZZEO, JR. IRA, JOE SAENZ, PATRICK GROSSE, TRUSTEE OF THE GROSSE FAMILY TRUST DATED 12/31/2004, ERIC VERHAEGHE, STEPHEN K. ZUPANC, CUSTODIAN FBO ADAM K. HRUBY IRA #TC005383, VINCENT INVESTMENTS, ELM 401K PSP, LAUREL MEAD AND EDWIN A. MEAD, TRUSTEES, EQUITY TRUST COMPANY, CUSTODIAN FBO STEVEN KRIEGER IRA, JULIO M. SCHNARS, JOSEPH M. SCHNARS, JOSEPH DERSHAM, JOYCE

DERSHAM, WALTER KAFFENBERGER, CHRISTEL KAFFENBERGER, MIKE BERRIS, JASON SUN, EQUITY TRUST COMPANY, CUSTODIAN FBO ERICA ROSS-KRIEGER IRA, BRANDORIA, LTD, AND ELB INVESTMENTS, LLC, Appellees

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On Appeal from the 125th District Court
Harris County, Texas
Trial Court Case No. 2019-59191

MEMORANDUM OPINION

Appellants, 2017 Yale Development, Inc., 2017 Yale Development, GP, LLC, Brad Parker and Tax Relief, Inc., seek to appeal the administrative judge's "Order Granting Recusal/Disqualification dated February 7, 2020."

In terms of appellate jurisdiction, appellate courts only have jurisdiction to review final judgments and certain interlocutory orders identified by statute. *Lehmann v. Har-Con Corp*., 39 S.W.3d 191, 195 (Tex. 2001). Rule 18a(j)(1)(B), provides that "[a]n order granting a motion to recuse is final and cannot be reviewed by appeal, mandamus, or otherwise." TEX. R. CIV. P. 18a(j)(1)(B). To the extent that the administrative judge granted the motion to recuse, such determination is final and cannot be reviewed by appeal. *See id*. Rule 18a(j)(2) provides that "[a]n order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law." TEX. R. CIV. P. 18a(j)(2). Appellants have previously filed two mandamus petitions to review the February 7,

2020 order. Both petitions were denied. *See In re 829 Yale, LLC*, Nos. 01-20-00133-CV, 01-20-00134-CV, 01-20-00135-CV, 2020 WL 894408, at *1 (Tex. App.—Houston [1st Dist.] Feb. 25, 2020, orig. proceeding) (per curiam) (mem. op.), *In re 2017 Yale Dev., LLC*, Nos. 01-20-00480-CV, 01-20-00481-CV, 01-20-482-CV, 2020 WL 5269422, at *1 (Tex. App.—Houston [1st Dist.] Sept. 3, 2020, orig. proceeding) (per curiam) (mem. op.). We are unaware of any "other law" that would permit appellate review of the administrative judge's interlocutory order.[1]

On September 29, 2020, we notified appellants that we intended to dismiss the appeal for lack of jurisdiction unless appellants filed a response, providing a detailed explanation with citation to statutes, rules, and caselaw demonstrating how this Court has jurisdiction. Appellants filed a response, contending that the Texas Government Code and Rule 18a(j)(2) "specifically provide for direct appeal by review of any order granting a motion to disqualify." Contrary to appellants' statement that Rule 18a(j)(2) provides for direct appeal, the rule states that it may be appealed "in accordance with other law." As we stated in our November 3 notice, we are unaware of any other law that would permit appellate review of the order at

[1] To the extent that the administrative judge granted a motion to disqualify, such order has the effect of voiding any orders or judgments rendered by the disqualified judge. *See In re Union Pac. Res. Co.*, 969 S.W.2d 427, 428 (Tex. 1998) (orig. proceeding) (stating "any orders or judgments rendered by a judge who is constitutionally disqualified are void and without effect"). Thus, the record does not contain any final judgment.

issue. *See In re Estate of Calkins*, 580 S.W.3d 287, 294 (Tex. App.—Houston [1st Dist.] 2019, no pet.) ("Neither the statute on which this Court relies for its interlocutory appellate jurisdiction nor any other statute authorizes an interlocutory appeal from a disqualification or recusal order."). Appellants do not argue that the administrative judge's post-judgment order is a final judgment that disposes of all parties and claims, and we decline to conclude that the administrative judge's post-judgment order can be classified as a final judgment. *See Lehmann*, 39 S.W.3d at 205 (stating that to be final judgment, order must have "actually dispose[d] of every pending claim and party or . . . clearly and unequivocally state[d] that it finally dispose[d] of all claims and all parties"). Appellants also do not cite any statutory authority allowing interlocutory appeal. *See* TEX. CIV. PRAC. & REM. CODE § 51.014(a).

Accordingly, we dismiss this appeal for lack of jurisdiction. *See* TEX. R. APP. P. 42.3(a), (c). We dismiss any pending motions as moot.

PER CURIAM

Panel consists of Chief Justice Radack and Justices Goodman and Hightower.