



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-21-00012-CV

**MARGARET KINSELLA, INDIVIDUALLY AND D/B/A
THE EMERALD RESTAURANT, APPELLANT**

V.

KENT SPORTS HOLDINGS, L.P., APPELLEE

**On Appeal from the County Court at Law Number One
Travis County, Texas
Trial Court No. C-1-CV-19-004937; Honorable Eric M. Shepperd, Presiding**

November 19, 2021

OPINION

Before QUINN, C.J., and PIRTLE and PARKER, JJ.

Appellant, Margaret Kinsella, individually and d/b/a The Emerald Restaurant, appeals the county court at law's judgment rendered in favor of Appellee, Kent Sports

Holdings, L.P.,¹ in its suit for forcible detainer, awarding Kent Sports possession of the commercial premises located at 13614 Highway 71 West, Bee Cave, Texas 78738. By letter dated October 26, 2021, this court advised Kinsella that pursuant to section 24.007 of the Texas Property Code, it appeared the judgment from which she seeks relief is not appealable. Thus, Kinsella was directed to show grounds for continuing this appeal by November 15, 2021, noting that failure to do so would subject this appeal to dismissal for want of jurisdiction. On November 16, Kinsella filed a *Motion to Continue the Deadline for a Response to Jurisdiction* requesting an extension to seven days after the filing of a reporter's record. However, on March 22, 2021, this court was advised by Kinsella's own counsel that no reporter's record was taken.

Notwithstanding Kinsella's desire to appeal the trial court's order, the Legislature has limited this court's jurisdiction in appeals from such proceedings by enacting section 24.007 of the Texas Property Code. That section provides as follows:

A final judgment of a county court in an eviction suit may not be appealed on the issue of possession unless the premises in question are being used for residential purposes only.

See TEX. PROP. CODE ANN. § 24.007 (West Supp. 2021); *Ugarte v. Eureka Holdings Acquisitions, LP*, No. 03-20-00083-CV, 2021 Tex. App. LEXIS 4020, at *1 (Tex. App.—Austin May 21, 2020, no pet.) (mem. op); *Volume Millwork, Inc. v. W. Houston Airport*

¹ Originally appealed to the Third Court of Appeals, sitting in Austin, this appeal was transferred to this court by the Texas Supreme Court pursuant to its docket equalization efforts. TEX. GOV'T CODE ANN. § 73.001 (West 2013). Should a conflict exist between precedent of the Third Court of Appeals and this court on any relevant issue, this appeal will be decided in accordance with the precedent of the transferor court. TEX. R. APP. P. 41.3.

Corp., 218 S.W.3d 722, 726-27 (Tex. App.—Houston [1st Dist.] 2006, pet. denied); *Carlson’s Hill Country Beverage, L.C. v. Westinghouse Rd. Joint Venture*, 957 S.W.2d 951, 952-53 (Tex. App.—Austin 1997, no pet.).

Here, the county court at law did not make a finding that the premises are being used for residential purposes only, nor does the record evidence support such a finding. Rather, the evidence demonstrates that the premises are being used for commercial purposes.

Accordingly, the *Motion to Continue the Deadline for a Response on Jurisdiction* is denied and this appeal is dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(c).

Per Curiam