

In the Supreme Court of Georgia

Decided: February 6, 2012

S11A1689. BOYD et al. v. JOHNGALT HOLDINGS, LLC, et al.

MELTON, Justice.

Pursuant to a tax sale, JohnGalt Holdings, LLC, purported to gain ownership of certain real property located in Atlanta. Nathaniel and Lucy Boyd believed that they owned the property in question, and on October 13, 2005 they sued JohnGalt for trespass and ejectment. JohnGalt counterclaimed for trespass and conversion, and to quiet title. Following the trial court's grant in part of JohnGalt's quiet title claim, the Boyds filed a timely notice of appeal, and also filed a request to proceed in forma pauperis. The trial court denied the Boyds' request to proceed in forma pauperis, and the Boyds filed a separate notice of appeal to appeal from that judgment. On April 8, 2011, the trial court issued a single order dismissing both of the Boyds' appeals (i.e. both the appeal relating to the quiet title claim and the appeal dealing with the denial of the Boyds' request to proceed in forma pauperis). The Boyds filed a notice of appeal from this April 8 order, which brings the matter before this Court. As explained more

fully below, because this Court lacks jurisdiction over the claims raised in this appeal, the appeal is hereby transferred to the Court of Appeals.

“This Court has a duty to resolve any questions about its jurisdiction over any given case where doubt may exist.” Reeves v. Newman, 287 Ga. 317, 317-318 (695 SE2d 626) (2010). Although the Boyds assert that jurisdiction lies in this Court “because this case involves title to land” (see Appellants’ Brief at 4; Ga. Const. of 1983 Art. VI, § VI, Para. III (1)), the Boyds concede in their brief that they are not attempting to challenge “the merits of the rulings of the trial court below. Instead, [they] seek[only] review of an order *denying pauper status* to the[m]. . . which was entered by the trial court sua sponte and without notice and an opportunity to be heard.” Appellants’ Brief at 1. Indeed, the only claims properly at issue in this appeal and argued in the Boyds’ brief relate to their dissatisfaction with the trial court’s decision to dismiss their appeals based on their failure to pay appeal costs in a timely manner.¹

Here, “[o]nly if the [trial] court's dismissal of the notice of appeal is

¹ The constitutional claim asserted by the Boyds was neither raised nor ruled upon below, and therefore provides no basis for jurisdiction in this Court. See, e.g., James v. Montgomery County Bd. of Educ., 283 Ga. 517, 518 n. 3 (661 SE2d 535) (2008).

overturned could any question dealing with title to land be brought to an appellate court.” (Punctuation omitted.) Smith v. Hobbs, 259 Ga. 88 (380 SE2d 53) (1989). As such, there is no title to land claim presented by this appeal for this Court to resolve. Indeed, in a purported “title to land” appeal such as this one, “[i]t is not what is in the complaint before the trial court that determines this Court's jurisdiction, but the *issues on appeal*.” (Emphasis in original) *Id.* Because the actual issues raised in this appeal do not provide a basis for jurisdiction in this Court, the appeal is hereby transferred to the Court of Appeals.

Transferred to the Court of Appeals. All the Justices concur.