

Denied and Opinion Filed October 31, 2017



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-01205-CV

IN RE JAMES M. BAKER AND CASTRO & BAKER, LLP, Relators

Original Proceeding from the 417th Judicial District Court
Collin County, Texas
Trial Court Cause No. 417-00076-2017

MEMORANDUM OPINION

Before Justices Lang, Brown, and Stoddart
Opinion by Justice Lang

In this original proceeding, relators complain of the trial court's denial of relators' motion to dismiss based on a contractual forum selection clause. To be entitled to mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding).

In the trial court, real party in interest Strategic Contract Brands, Inc. asserted seven grounds for denying relators' motion to dismiss. The trial court denied the motion to dismiss and denied relators' motion for reconsideration without stating on which grounds it denied the motions. In their petition for writ of mandamus, Relators address only the first two grounds raised by the real party in interest below. When an appellant fails to attack one of the possible grounds on which a judgment was granted, the judgment must be affirmed. *Malooly Bros., Inc. v. Napier*, 461 S.W.2d 119, 121 (Tex. 1970) (stating proposition in context of summary

judgment). By failing to address all possible grounds for the trial court’s ruling, we must affirm on the grounds not addressed. *See id.*; *see also Mann v. Denton County*, No. 02-16-00030-CV, 2017 WL 526309, at *6 (Tex. App.—Fort Worth Feb. 9, 2017, pet. denied) (“When the trial court grants a plea to the jurisdiction and does not state the basis of its ruling, we may affirm on any basis preserved in the record.”). Here, relators’ failure to challenge five grounds raised by the real party in interest below is fatal to relators’ petition.

Relators also complain that they have been harmed by the trial court’s failure to issue findings of fact and conclusions of law because relators have been forced to guess the reasons for the trial court’s rulings. We disagree. Findings of fact and conclusions of law are unnecessary where, as here, the trial court has decided the case based solely on the pleadings and arguments of counsel. *CMS Partners, Ltd. v. Plumrose USA, Inc.*, 101 S.W.3d 730, 736 (Tex. App.—Texarkana 2003, no pet.) (findings and conclusions unnecessary where interpretation and enforceability of the forum selection clause were the only issues presented on appeal) (citing *IKB Indus. (Nigeria) Ltd. v. Pro-Line Corp.*, 938 S.W.2d 440, 443 (Tex. 1997) and *Awde v. Dabeit*, 938 S.W.2d 31, 33 (Tex. 1997)). Relators have not been harmed by the lack of findings of fact and conclusions of law.

Based on the record before us, we conclude relators have not shown they are entitled to the relief requested. Accordingly, we deny relators’ petition for writ of mandamus. . *See* TEX. R. APP. P. 52.8(a) (the court must deny the petition if the court determines relator is not entitled to the relief sought).

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/Douglas S. Lang/

DOUGLAS S. LANG
JUSTICE