AFFIRM; and Opinion Filed May 9, 2018.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-17-00453-CV

MIMON OSADON, KLT RENOVATION, INC., AND ALL NATION RENOVATION, INC., Appellants
V.
C&N RENOVATION, INC., Appellee

On Appeal from the 44th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-15-14200

MEMORANDUM OPINION

Before Justices Lang-Miers, Myers, and Boatright
Opinion by Justice Boatright

This appeal arises from a debtor's transfer of funds to avoid garnishment by its judgment creditor. We must decide two principal questions: (i) whether the federal bankruptcy court retains subject-matter jurisdiction over the creditor's claims to the exclusion of the district court's exercise of jurisdiction over such claims in the proceeding below, and (ii) whether the district court erred in rendering summary judgment in the creditor's favor. We answer both of these questions in the negative, and we therefore affirm.

I. Background

C&N Renovation, Inc., the appellee, obtained an arbitration award against All Nation Renovation, Inc. (ANR), an appellant, in the amount of $94,110.04. C&N filed suit against ANR in September 2012 to confirm the award. On March 12, 2013, the district court rendered judgment

awarding C&N $115,090.54, which consisted of the arbitration award plus $20,980.50 in attorney's fees and other expenses incurred in the arbitration.

Six days before the court rendered judgment, on March 6, ANR deposited a check in the amount of $232,721.59 into its bank account. Appellants contend that ANR was paid this sum for its completion of a construction project in Arizona. On March 8, ANR transferred $232,500 to KLT Renovation, Inc., an appellant. Six days later, on March 14, KLT transferred $120,000 to Mimon Osadon, also an appellant. Both ANR and KLT are owned solely by Osadon. On the advice of his banker, Osadon conducted the foregoing transfers to prevent C&N from garnishing the funds so that he could instead pay debts that ANR owed to subcontractors who had worked on its construction project.

Approximately two years later, in February 2015, ANR filed a Chapter 7 bankruptcy. *See generally* 11 U.S.C. §§ 701–84. ANR's bankruptcy filing disclosed (i) personal property assets of $100 (on Schedule B), (ii) C&N as a creditor holding unsecured non-priority claims (on Schedule F), and (iii) a March 13, 2013 transfer of an undisclosed amount to Osadon "to repay debts of company" (on the statement of financial affairs). The bankruptcy court closed the ANR bankruptcy in July 2015 without any discharge of ANR's debts or any action taken by the bankruptcy trustee to recover the March 2013 transfers. Appellants represent that the trustee requested and reviewed two years' worth of ANR's bank statements but elected to close the case without taking further action. C&N was the only creditor listed in ANR's bankruptcy filing.

C&N filed the underlying suit in November 2015, alleging claims against appellants for fraudulent transfer, civil conspiracy, and attorney's fees. It sought damages of at least $100,000. Appellants moved to dismiss C&N's claims for lack of subject matter jurisdiction,[1] urging that the

[1] A motion to dismiss based on a lack of subject-matter jurisdiction is the functional equivalent of a plea to the jurisdiction contesting the trial court's authority to determine the subject matter of a cause of action. *McMennamy v. McMennamy*, No. 05-06-01566-CV, 2007 WL 2938264, at *2 (Tex. App.—Dallas Oct. 10, 2007, pet. denied) (mem. op).

bankruptcy court retained exclusive jurisdiction over the transfers that C&N sought to recover. Following a hearing, the district court denied appellants' motion.

C&N filed a traditional motion for summary judgment. The district court granted C&N's motion and awarded it $115,090.54 against each of appellants, jointly and severally. This sum represented the amount awarded in the judgment rendered on March 12, 2013. The court declined to render summary judgment on C&N's attorney's fees claim, instead setting this claim for trial. Following a one-day bench trial, the court on January 31, 2017, rendered judgment incorporating its prior summary-judgment ruling and also awarding C&N $59,769.80 for attorney's fees as well as additional fees if the case was appealed. The court thereafter made findings of fact and conclusions of law with respect to its attorney's fees award. This appeal followed.

II. Analysis

Appellants raise eight issues that we categorize into three topics: jurisdiction, summary judgment, and damages. We will consider each topic in turn.

A. Jurisdiction

ANR's bankruptcy estate consisted of its "legal or equitable interests" in property as of the commencement of its bankruptcy case. 11 U.S.C. § 541(a)(1). In their first issue, appellants contend that the estate included ANR's interest in the funds that it had transferred to KLT, and that KLT had transferred to Osadon, relying on *In re MortgageAmerica Corp.*, 714 F.2d 1266 (5th Cir. 1983). The Fifth Circuit in that case addressed the issue of whether the automatic stay applied to the fraudulent transfer claims of a creditor while the bankruptcy was pending. The court concluded that a debtor in bankruptcy should be considered under section 541(a)(1) of the Bankruptcy Code as continuing to have a "legal or equitable interest[ ]" in property fraudulently transferred by the debtor and the automatic stay applied. *Id*. at 1275. While the transferee may have colorable title to the property, the equitable interest remains in the debtor so that creditors may attach or execute

judgment upon it as though the debtor had never transferred it. *Id.* A suit to pursue the debtor's property is usually brought by the bankruptcy trustee for the benefit of all creditors equally. *Id.* at 1272. Based on *MortgageAmerica*, appellants urge that the claims remain "property of the estate" although the bankruptcy was closed and the trustee was discharged. In appellants' view, this interest remains subject to the bankruptcy court's exclusive jurisdiction, and the district court in the proceeding below thus erred in denying appellants' motion to dismiss.

We disagree with appellants. To understand appellants' argument, we must consider the statutory provisions applicable to the abandonment of property of a bankruptcy estate and the closure of a bankruptcy case. After a hearing, the bankruptcy trustee may abandon any property that is of inconsequential value and benefit to the estate, and the court may order such an abandonment on the request of a party in interest. 11 U.S.C. § 554(a)–(b). The Bankruptcy Code requires the closure of a case once the estate has been "fully administered" and the bankruptcy court has discharged the trustee. *Id.* § 350(a). Upon such closure, "any property scheduled under section 521(a)(1)" of the code and "not otherwise administered" is "abandoned to the debtor and administered for purposes of section 350." *Id.* § 554(c). However, property that has neither been abandoned nor administered remains in the estate. *Id.* § 554(d). Appellants contend that ANR's interest in the foregoing transfers was neither "scheduled" nor "administered," and thus it remains in the estate following the closure of the bankruptcy case. They also fault C&N for not itself seeking abandonment of ANR's interest in the bankruptcy court or seeking to compel the trustee to prosecute the claim.

C&N responds that *MortgageAmerica* is distinguishable and does not apply to this case. It notes that in *MortgageAmerica* the creditor was attempting to pursue its fraudulent transfer claims while the bankruptcy was still pending and that the issue was whether the claims were part of the estate and subject to the automatic stay. Under C&N's view, the trustee alone had standing to avoid

ANR's transfer, and this standing reverted to C&N upon the closure of the bankruptcy case and the expiration of the two-year statute of limitations applicable to the trustee. *E.g., In re Integrated Agri, Inc.*, 313 B.R. 419, 427–28 (Bankr. C.D. Ill. 2004). C&N alternatively urges that the transfers were "scheduled" and that the estate's claim to the funds was therefore abandoned when the bankruptcy was closed. Finally, C&N contends that appellants are judicially estopped by their "intentionally contradicting positions" from claiming that the district court lacked jurisdiction.

Subject matter jurisdiction is a question of law that we review de novo. *City of Houston v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013) (per curiam). The *MortgageAmerica* decision has been criticized by several courts, *e.g.*, *In re Bruner*, 561 B.R. 397, 405–06 (B.A.P. 6th Cir. 2017), and we are not bound by it, *see Penrod Drilling Corp. v. Williams*, 868 S.W.2d 294, 296 (Tex. 1993) (per curiam) (noting that Texas courts are obligated to follow only higher Texas courts and the United States Supreme Court), *abrogated on other grounds as stated in Rowe v. Hornblower Fleet*, No. C–11–4979 JCS, 2012 WL 5833541, at *12 (N.D. Cal. Nov.16, 2012) (order). However, assuming that *MortgageAmerica* applies here, we conclude that the ANR estate's interest in the transfers in question was abandoned upon the closure of the bankruptcy and thus was no longer subject to the jurisdiction of the bankruptcy court. Our conclusion is based on the text of section 554(c) of the Bankruptcy Code. 11 U.S.C. § 554(c). As described previously, this section provides that "property scheduled under section 521(a)(1)" of the code is "abandoned" when the bankruptcy is closed. *Id.* Section 521(a)(1), in turn, requires that a bankruptcy filing include, among other documents, a statement of the debtor's financial affairs. *Id.* § 521(a)(1)(B)(iii). Thus, ANR "scheduled" its prior transfer when it disclosed on its statement of financial affairs that it had transferred funds to Osadon "to repay debts of the company." While some bankruptcy courts have held that "scheduled" in the context of section 554(c) is limited to property disclosed on a piece of paper entitled "schedule," *e.g.*, *In re Schmidt*, 54 B.R. 78, 80 (Bankr. D. Or. 1985), section 554(c)

by its terms incorporates section 521(a)(1) without any such limitation. Accordingly, we agree with the cases holding that "the 'scheduled' requirement in § 554(c) refers to all of the disclosures required in § 521(a)(1), including the debtor's statement of financial affairs." *United States ex rel. Fortenberry v. Holloway Group, Inc.*, 515 B.R. 827, 829 (Bankr W.D. Okla. 2014) (citing *In re Hill*, 195 B.R. 147, 149–51 (Bankr. D. N.M. 1996)).

Appellants urge that *Fortenberry* and *Hill* are distinguishable because they involved a statement of financial affairs that disclosed pending fraudulent transfer suits, whereas no such suit had yet been filed against ANR when it declared bankruptcy. In our view, this distinction makes no difference. Neither section 554(c) nor section 521(a)(1) precludes the debtor's statement of financial affairs from disclosing transfers that are not yet the subject of a pending lawsuit. Appellants also contend that if C&N succeeds in voiding the transfers in question, "additional claimants will be created and those need to be addressed in the Bankruptcy Court." We disagree given that ANR disclosed C&N as the estate's sole creditor.

We overrule appellants' first issue. We need not consider their second issue, which challenges C&N's contention that appellants were judicially estopped from contesting jurisdiction.

B. Summary Judgment

Appellants' third through seventh issues challenge the district court's rendition of summary judgment in C&N's favor on its fraudulent transfer and civil conspiracy claims. To prevail on a traditional motion for summary judgment, the movant bears the burden of proving that there is no genuine issue as to any material fact and that it is entitled to judgment as a matter of law. TEX. R. CIV. P. 166a(c). All doubts regarding the existence of a genuine issue of material fact are resolved against the movant. *Powell v. Vavro, McDonald, & Assoc., L.L.C.*, 136 S.W.3d 762, 764 (Tex. App.—Dallas 2004, no pet.).

1. Fraudulent Transfer

C&N's summary-judgment motion urged that the transfers at issue violated three provisions of the Texas Uniform Fraudulent Transfer Act (TUFTA).[2] Appellants contend there was an issue of fact regarding the element of intent for the claim that they violated TUFTA § 24.005(a)(1). TEX. BUS. & COM. CODE ANN. § 24.005(a)(1) (West 2015). Appellee argues that the other two of the three claims do not include the element of intent. Consequently, we begin by considering the TUFTA provisions on which C&N's motion relied that do not require proof of intent. The district court's summary-judgment order does not specify the grounds for the court's ruling, and we may affirm if C&N established the essential elements of any of the statutory provisions on which its motion was based. *Rogers v. Ricane Enters. Inc.*, 772 S.W.2d 76, 79 (Tex. 1989).

a. Section 24.006(a)

ANR's transfer to KLT violated Section 24.006(a) of the Business and Commerce Code if (i) C&N's claim arose before the transfer was made, (ii) ANR made the transfer "without receiving a reasonably equivalent value in exchange," and (iii) ANR became insolvent as a result of the transfer. TEX. BUS. & COM. CODE ANN. § 24.006(a) (West 2015). If C&N proves a violation, it may recover from ANR (the person for whose benefit the transfer was made), KLT (the first transferee), and from any subsequent transferee—in this case, Osadon—other than a "good faith transferee who took for value." *Id.* § 24.009(b)(1)–(2) (West 2015). Of the above elements, appellants dispute only whether ANR made the transfer without receiving "a reasonably equivalent value" in exchange. They contend that the elimination of ANR's antecedent debt met this requirement. C&N responds that (i) KLT and Osadon were transferees; (ii) as such, they offered

[2] *See generally* TEX. BUS. & COM. CODE ANN. § 24.001 (West 2015) (noting that Chapter 24 of the Business and Commerce Code may be cited as the Uniform Fraudulent Transfer Act).

no "reasonably equivalent value" in exchange for the transfers to them; and (iii) appellants also offered no proof that the transferred funds were actually applied to ANR's debts.

Were KLT and Osadon transferees?

Section 24.006(a) of TUFTA refers to "value" offered "in exchange for *the transfer*." *Id.* § 24.006(a) (emphasis added); *see* TEX. BUS. & COM. CODE ANN. § 24.002(12) (West Supp. 2017) (defining "transfer" as every mode disposing of or parting with an asset). We interpret this statutory language as referring to a single transfer. Pertinent to this case, we must examine the value offered by KLT, and by Osadon, in exchange for the respective transfers made to them. In their fifth issue, appellants argue to the contrary. They assert that KLT and Osadon acted as mere conduits on behalf of ANR, thereby effectively combining the transfers into a single transfer in which ANR, the transferor, paid down the debt owed to its subcontractor creditors, the transferees.

Appellants rely on *Newsome v. Charter Bank Colonial* as support for their argument. 940 S.W.2d 157 (Tex. App.—Houston [14th Dist.] 1996, writ denied). *Newsome* arose from three debtors' transfers of funds to bank accounts held in the names of the debtors' family members or employees, allegedly to avoid creditors' attempts to garnish the funds. *Id.* at 160, 164–66. The creditors sued the bank on claims including fraudulent transfer. *Id.* at 159. Our sister court held that the bank was not a transferee and thus it could not be liable for a fraudulent transfer. *Id.* at 166. The court looked to Fifth Circuit authority defining a "transferee" in the context of the Bankruptcy Code as "a party who has legal dominion or control over the funds; that is, the right to put the money to one's own use." *Id.* at 165 (citing *Matter of Coutee,* 984 F.2d 138, 141 (5th Cir. 1993)). Applying this definition, the court concluded that the bank was merely a financial conduit whose role was to pay funds as directed by its depositors in accordance with applicable law and prudent banking standards. *Id.* at 166.

Unlike the bank in *Newsome*, KLT was not a financial intermediary of ANR. Osadon, the sole shareholder of both entities, testified in deposition that KLT took over ANR's construction business subsequent to the March 2013 judgment rendered against ANR. Osadon alone had access to the accounts in question, and appellants concede that a portion of the funds transferred to his account were not paid to ANR's creditors. Considering this evidence in the light most favorable to appellants, we conclude that C&N established as a matter of law that KLT and Osadon controlled the funds transferred to their respective accounts. Moreover, appellants' summary-judgment evidence provides additional proof of such control. Osadon averred that he retained some of the money received from KLT as compensation for work that he had performed on the construction project. His affidavit also attached a self-prepared exhibit revealing that (i) KLT retained $8,564 of the funds transferred to it by ANR, and (ii) Osadon retained $17,155.85 of the funds transferred to him by KLT. In sum, C&N established as a matter of law that KLT and Osadon were transferees, not conduits. We overrule appellants' fifth issue.

Did KLT and Osadon exchange "value"?

Appellants' fourth issue contends that that the satisfaction of ANR's debt was a "reasonably equivalent value" under section 24.006(a). *See also* TEX. BUS. & COM. CODE ANN. § 24.004(a) (West 2015) (noting that satisfaction of an antecedent debt constitutes "value"). We disagree that the subsequent transfer to ANR's creditors is relevant to the earlier transfers at issue here, i.e., the first transfer from ANR to KLT and the second transfer from KLT to Osadon. C&N contends that no "reasonably equivalent value" was offered in exchange for these transfers, citing the Texas Supreme Court's decision in *Janvey v. Golf Channel, Inc.*, 487 S.W.3d 560, 564 (Tex. 2016).

In *Janvey*, the supreme court answered a question certified by the Fifth Circuit: what showing of value under TUFTA is sufficient for a transferee to prove the elements of the good-

faith affirmative defense under section 24.009(a) of the statute? *Id*. Section 24.009(a) provides that a transfer is not voidable under section 24.005(a)(1)—i.e., the provision related to transfers made with intent to hinder, delay, or defraud any creditor of the debtor—against a person "who took in good faith and for reasonably equivalent value." TEX. BUS. & COM. CODE ANN. § 24.009(a) (West 2015). The supreme court concluded that TUFTA's "reasonably equivalent value" requirement can be satisfied with evidence that the transferee (1) fully performed under a lawful, arms-length contract for fair market value, (2) provided consideration that had objective value at the time of the transaction, and (3) made the exchange in the ordinary course of the transferee's business. *Janvey*, 487 S.W.3d at 564; *see* TEX. BUS. & COM. CODE ANN. § 24.004(d) (West 2015) (stating "[r]easonably equivalent value" includes a "transfer or obligation that is within the range of values for which the transferor would have sold the assets in an arm's length transaction").

Janvey is instructive in our consideration of whether KLT and Osadon offered value in exchange for the transfers to them. ANR and KLT were both owned by Osadon, and it is undisputed that ANR received no value from either KLT or Osadon in exchange for the first transfer. Moreover, KLT was a construction company, and thus its ordinary course of business did not involve accepting funds from ANR to pay off ANR's creditors. With respect to the second transfer, the only value received by KLT in the exchange was the work previously performed by Osadon, for which he retained approximately $17,000 as compensation. Appellants characterize this compensation as a "relatively small" amount, and they do not contend that it rendered Osadon a "good faith transferee who took for value" the $120,000 transferred to him. Finally, it was not in Osadon's ordinary course of business to accept funds from ANR or KLT to pay ANR's creditors. He testified that he did not typically move money into his personal account to pay ANR's debts.

Viewing this evidence in the light most favorable to appellants, we conclude that C&N established as a matter of law that appellants violated section 24.006(a) of the Business and

Commerce Code. The district court therefore properly rendered summary judgment for C&N on this basis. We overrule appellants' fourth issue.

b. Section 24.006(b)

As an alternative ground for affirming the judgment, we consider whether the transfers in question violated section 24.006(b) of the Business and Commerce Code. ANR's transfer to KLT violated this section if (i) C&N's claim arose before the transfer was made, (ii) the transfer was "made to an insider for an antecedent debt," (iii) ANR was insolvent at that time, and (iv) the insider had reasonable cause to believe that ANR was insolvent. TEX. BUS. & COM. CODE ANN. § 24.006(b) (West 2015). Appellants dispute only the second element. They urge that the funds in question were transferred to third-party creditors, relying on the conduit argument that we have rejected above. Their sixth issue additionally contends that (i) section 24.006(b) "requires an antecedent debt owed to an insider," and (ii) ANR's debt was owed to third-party creditors who were not insiders.

Our primary objective in construing a statute is to ascertain the Legislature's intent without unduly restricting or expanding the statute's scope. *Janvey*, 487 S.W.3d at 572. We derive intent from the plain meaning of the text construed in light of the statute as a whole. *Id.* The plain meaning of section 24.006(b) is contrary to appellants' interpretation. The statute does not contain the phrase "owed to an insider." It only states that "the transfer was made to an insider for an antecedent debt." TEX. BUS. & COM. CODE ANN. § 24.006(b). We must take the statute as we find it, presuming that the Legislature included words that it intended to include and omitted words that it intended to omit. *Union Carbide Corp. v. Synatzske*, 438 S.W.3d 39, 52 (Tex. 2014).

In addition, nothing in the context of section 24.006(b) leads us to interpret its terms different than their ordinary meaning. *See Janvey*, 487 S.W.3d at 572–73 (describing contextual considerations when construing TUFTA). While TUFTA defines the terms "debt," "insider" and

"transfer," TEX. BUS. & COM. CODE ANN. § 24.002(5), (7), (12) (West Supp. 2017), none of these definitions support appellants' contention that section 24.006(b) applies only if the antecedent debt was owed to the transferee. Nor are we persuaded by appellants' contention that their interpretation is required by the statutory language limiting section 24.006(b)'s application to "a creditor whose claim arose before the transfer was made." TEX. BUS. & COM. CODE ANN. § 24.006(b). This language makes clear that such claims are available only to pre-existing creditors, but it does not mean that the statute prohibits only transfers to insiders to pay antecedent debts owed to such insiders. Finally, the plain meaning of the statute as written—i.e., that the statute prohibits transfers to insiders for any antecedent debt—does not create an absurd result that would lead us to interpret it contrary to its plain meaning. *E.g., Combs v. Health Care Servs. Corp.*, 401 S.W.3d 623, 630 (Tex. 2013) ("The absurdity safety valve is reserved for truly exceptional cases, and mere oddity does not equal absurdity.").

TUFTA also instructs that it be "applied and construed to effectuate its general purpose to make uniform the law with respect to [fraudulent transfers] among states enacting [the UFTA]." TEX. BUS. COM. CODE ANN. § 24.012 (West 2015). We may consider the construction afforded similar provisions in UFTA statutes enacted by other states, *Janvey*, 487 S.W.3d at 572–73, but the parties have cited no such cases. While commentary accompanying the model law appears to support appellants' interpretation, *e.g.,* UNIF. FRAUDULENT TRANSFER ACT § 3, cmt. 3 (1984) (noting that "[a] transfer to satisfy . . . an antecedent debt *owed an insider* is . . . subject to avoidance" (emphasis added)), UFTA's comments were not adopted by the Texas Legislature and cannot alter the plain meaning of the words enacted, which are the "'truest manifestation of what legislators intended.'" *Janvey*, 487 S.W.3d at 573 (quoting *Alex Sheshunoff Mgmt. Servs., L.P. v. Johnson*, 209 S.W.3d 644, 651 (Tex.2006)).

In sum, the statute's plain terms do not require that the antecedent debt be owed to the insider for the statute to apply, and the district court properly rendered summary judgment for C&N based on section 24.006(b). We overrule appellants' sixth issue. We need not consider appellants' third issue, which challenges C&N's alternative ground based on TUFTA section 24.005. TEX. BUS & COMM. CODE ANN. § 24.005.

2. Civil Conspiracy

In their seventh issue, appellants contend that the district court erred in rendering summary judgment for C&N on its civil conspiracy claim because C&N proved neither a fraudulent transfer nor the requisite intent. An actionable civil conspiracy requires specific intent to agree to accomplish an unlawful purpose or a lawful purpose by an unlawful means. *ERI Consulting Eng'rs, Inc. v. Swinnea*, 318 S.W.3d 867, 881 (Tex. 2010). In response, C&N contends that it proved both a TUFTA violation and an agreement among appellants to prevent C&N from collecting its judgment.

Although we have determined that C&N conclusively established a violation of TUFTA's constructive-fraud provisions—i.e., sections 24.006(a) and (b)—we need not determine whether C&N's summary-judgment evidence also established the specific intent required to establish a civil conspiracy claim. Even if the district court erred in rendering summary judgment for C&N on its conspiracy claim, appellants have not shown that such an error "probably caused the rendition of an improper judgment," TEX. R. APP. P. 44.1(a)(1), given that the summary judgment rendered for C&N on its TUFTA claim independently justified the relief awarded by the court. We therefore overrule appellants' seventh issue.

C. Damages

Appellants' eighth issue asserts two complaints regarding the damages awarded by the district court. They first contend that the judgment rendered against Osadon could not exceed the

amount transferred to him by KLT. However, the record reflects that the court rendered judgment against Osadon in the amount of $115,090.54, which was less than the $120,000 transferred to him by KLT.

Appellants next contend that the underlying judgment rendered against ANR is duplicative of the March 2013 judgment previously rendered against it. Under TUFTA, a creditor may recover the value of the asset transferred, or the amount necessary to satisfy the creditor's claim, whichever is less, from the person for whose benefit the transfer was made—in this case, ANR. TEX. BUS. & COM. CODE ANN. § 24.009(b)(1). The underlying judgment awarded C&N the amount necessary to satisfy its claim given that ANR's fraudulent transfer to that point had precluded C&N from collecting on the prior March 2013 judgment. We thus conclude that the underlying judgment was not duplicative. We overrule appellants' eighth issue.

CONCLUSION

We affirm the district court's judgment.

/Jason Boatright/
JASON BOATRIGHT
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

MIMON OSADON, KLT RENOVATION, INC., AND ALL NATION RENOVATION, Appellants

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Opinion delivered by Justice Boatright.
Justices Lang-Miers and Myers participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee C&N RENOVATION, INC. recover its costs of this appeal from appellants MIMON OSADON, KLT RENOVATION, INC., and ALL NATION RENOVATION.

Judgment entered this 9th day of May, 2018.