

Opinion issued November 24, 2020



In The
Court of Appeals
For The
First District of Texas

NO. 01-20-00775-CV

IN RE CRAFT & DESIGN, Relator

Original Proceeding on Petition for Writ of Mandamus

MEMORANDUM OPINION

Relator, Craft & Design, has filed a petition for a writ of mandamus, challenging the trial court's October 27, 2020 order denying its motion for summary judgment.¹

We deny relator's petition for writ of mandamus.

¹ The underlying case is *Craft & Design v. 3i Contracting LLC*, Cause No. 2019-40584, in the 55th District Court of Harris County, Texas, the Honorable Latosha Lewis Payne presiding.

Mandamus is an extraordinary remedy that is only available in limited circumstances. *See Walker v. Packer*, 827 S.W.2d 833, 839–40 (Tex. 1992). To be entitled to mandamus relief, the relator must show both that the trial court abused its discretion and that there is no adequate remedy by appeal. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004).

Relator asserts in its petition for writ of mandamus that the trial court abused its discretion by denying its motion for summary judgment. However, “mandamus is generally unavailable when a trial court denies summary judgment, no matter how meritorious the motion.” *See United Servs. Auto. Ass’n*, 307 S.W.3d 299, 314 (Tex. 2010); *In re McAllen Med. Ctr., Inc.*, 275 S.W.3d 458, 465 (Tex. 2008). Because relator has an adequate remedy by appeal, mandamus relief is not appropriate. *See In re McAllen Med. Ctr., Inc.*, 275 S.W.3d at 465–66 (denial of summary judgment does not deprive relator of appellate remedy as “trying a case in which summary judgment would have been appropriate does not mean the case will have to be tried twice”).

Accordingly, we deny relator’s petition for writ of mandamus. All pending motions are dismissed as moot.

PER CURIAM

Panel consists of Justices Keys, Hightower, and Countiss