Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-19-00825-CV

Tanita F. **KEHOE** and Bryan Scott Kehoe,
Appellants

v.

KENDALL COUNTY, TEXAS,
Appellee

From the 451st Judicial District Court, Kendall County, Texas
Trial Court No. 19-460
Honorable Solomon Casseb, III, Judge Presiding

Opinion by: Beth Watkins, Justice

Sitting: Rebeca C. Martinez, Justice
Irene Rios, Justice
Beth Watkins, Justice

Delivered and Filed: July 15, 2020

AFFIRMED

Appellants Tanita Faye Kehoe and Bryan Scott Kehoe (collectively, "the Kehoes") appeal the trial court's order granting appellee Kendall County, Texas's plea to the jurisdiction and awarding sanctions. We affirm.

BACKGROUND

On July 29, 2019, the Kehoes sued Kendall County, alleging that on September 25, 2017, Kendall County improperly "accepted [a] 40-foot wide easement across the [Kehoes'] property." The Kehoes asserted claims under the Uniform Declaratory Judgments Act; Article I, section 17

of the Texas Constitution; and the Texas Private Real Property Rights Preservation Act ("PRPRPA"). Kendall County filed a plea to the jurisdiction, arguing the Kehoes' pleadings "failed to establish a clear, unambiguous legislative consent to sue the County" and their PRPRPA claim was jurisdictionally barred because they filed it more than 180 days after the challenged action. Kendall County also sought sanctions because the Kehoes had unsuccessfully asserted claims against it related to the 40-foot wide easement in previous lawsuits. The Kehoes did not file a response to Kendall County's plea to the jurisdiction or motion for sanctions.

On October 21, 2019, the trial court held a hearing on Kendall County's plea to the jurisdiction. The Kehoes, acting pro se, presented argument on the merits of their claims, but they did not address Kendall County's contention that "[t]heir own pleadings show there is no jurisdiction in this case." At the end of that hearing, the trial court signed an order granting the plea to the jurisdiction. It also ordered the Kehoes to pay $3,500 in attorney's fees "as sanctions for filing this frivolous lawsuit," plus additional attorney's fees as sanctions if the Kehoes unsuccessfully appealed to this court or the Texas Supreme Court. The Kehoes, again acting pro se, timely filed this appeal.

ANALYSIS

Although we liberally construe pro se pleadings and briefs, we hold pro se litigants to the same standards as licensed attorneys and require them to comply with applicable rules of procedure. *See Smith v. DC Civil Constr., LLC*, 521 S.W.3d 75, 76 (Tex. App.—San Antonio 2017, no pet.). An appellant's brief must contain clear and concise arguments supported by appropriate citations to the applicable authorities and the appellate record. TEX. R. APP. P. 38.1. An appellant bears the burden "'to discuss [his] assertions of error, and we have no duty—or even right—to perform an independent review of the record and applicable law to determine whether there was error.'" *Tchernowitz v. The Gardens at Clearwater*, No. 04-15-00716-CV, 2016 WL 6247008, at

*1 (Tex. App.—San Antonio Oct. 26, 2016, no pet.) (mem. op.) (quoting *Rubsamen v. Wackman*, 322 S.W.3d 745, 746 (Tex. App.—El Paso 2010, no pet.)). Additionally, we "may not reverse the judgment of a trial court for a reason not raised in a point of error." *Walling v. Metcalfe*, 863 S.W.3d 56, 58 (Tex. 1993); *see also Britton v. Tex. Dep't of Criminal Justice*, 95 S.W.3d 676, 680–81 (Tex. App.—Houston [1st Dist.] 2002, no pet.) (holding appellant challenging order granting plea to the jurisdiction must attack all grounds supporting plea).

The Kehoes' arguments in this court, even broadly construed, do not address the trial court's jurisdictional dismissal. *See Britton*, 95 S.W.3d at 681. Instead, their arguments go solely to the substantive merits of their claims, which are not properly at issue in this appeal. *See MHCB (USA) Leasing & Fin. Corp. v. Galveston Cent. Appraisal Dist. Review Bd.*, 249 S.W.3d 68, 89 (Tex. App.—Houston [1st Dist.] 2007, pet. denied). Even if the Kehoes' contentions could be construed to address the trial court's ruling, the arguments presented in their opening and reply briefs consist solely of bare assertions of error, without citations to applicable authority or the record. *See Washington v. Bank of N.Y.*, 362 S.W.3d 853, 854 (Tex. App.—Dallas 2012, no pet.); *see also* TEX. R. APP. P. 38.1. Because the Kehoes have not presented anything for our review, we affirm the portion of the trial court's order granting Kendall County's plea to the jurisdiction. *See Walling*, 863 S.W.3d at 58; *Britton*, 95 S.W.3d at 681.

The Kehoes' briefing does address the trial court's award of sanctions. They contend the trial court erred by "awarding attorney's fees to [Kendall County] under the Declaratory Judgments Act,"[1] and they claim the evidence is not sufficient "to support the award of attorney's fees to [Kendall County]." However, they cite no evidence or authority showing the trial court erred by awarding sanctions against them or that the evidence is insufficient to support the amount of

[1] The trial court awarded attorney's fees to Kendall County as sanctions, not under the Declaratory Judgments Act.

sanctions. This court may not perform an independent review of the record and applicable law to determine whether there is error. TEX. R. APP. P. 38.1; *Tchernowitz*, 2016 WL 6247008, at *1. We affirm the portion of the trial court's order assessing sanctions.

CONCLUSION

We affirm the trial court's order.

Beth Watkins, Justice