



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-20-00282-CV

CONOCOPHILLIPS COMPANY,
Appellant

v.

CAMINO AGAVE, INC.,
Appellee

From the 73rd Judicial District Court, Bexar County, Texas
Trial Court No. 2014-CI-16265
Honorable Cynthia Marie Chapa, Judge Presiding

PER CURIAM

Sitting: Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: July 29, 2020

PETITION FOR PERMISSIVE APPEAL DENIED; DISMISSED FOR WANT OF JURISDICTION

Appellant, ConocoPhillips Company, has filed a petition for permissive appeal, seeking to challenge an interlocutory order denying its motion for summary judgment and granting a motion for partial summary judgment in favor of appellee, Camino Agave, Inc.

To be entitled to a permissive appeal from an interlocutory order that would not otherwise be appealable, the requesting party must establish that (1) the order to be appealed involves a “controlling question of law as to which there is a substantial ground for difference of opinion”

and (2) an immediate appeal from the order “may materially advance the ultimate termination of the litigation.” See TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(d); see also TEX. R. APP. P. 28.3.

Having fully considered appellant’s petition, appellee’s response in opposition to the petition, and appellant’s reply to appellee’s response, we deny the petition for permissive appeal. See *id.* TEX. R. APP. P. 28.3(e)(4); see also *Sabre Travel Int’l, Ltd. v. Deutsche Lufthansa AG*, 567 S.W.3d 725, 732 (Tex. 2019) (“Texas courts of appeals have discretion to accept or deny permissive interlocutory appeals . . .”).¹ Accordingly, we dismiss this appeal for lack of jurisdiction. See *Durairaj v. Durairaj*, No. 04-19-00271-CV, 2019 WL 3937275, at *1 (Tex. App.—San Antonio Aug. 21, 2019, no pet.) (mem. op.) (per curiam) (denying a petition for permissive appeal and dismissing the appeal for lack of jurisdiction).

PER CURIAM

¹ We recognize that the denial of a petition for permissive appeal does not prevent the Texas Supreme Court from reaching the merits of the underlying interlocutory order. See *Sabre Travel Int’l*, 567 S.W.3d at 733 (“If the trial court concludes that the threshold requirements are satisfied and certifies the interlocutory order according to section 51.014(d), it ‘permits an appeal’ from the order, and [the Texas Supreme] Court’s jurisdiction is then proper under section 22.225(d) regardless of how the court of appeals exercises its discretion over the permissive appeal.”).