

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-10-00280-CV

**IN RE JJJJ WALKER, LLC, DYNAFAB USA, LLC, RENAISSANCE
PROPERTIES OF TEXAS, LLC, PRIYA PROPERTIES, LLC, BD TEXAS, LLC,
AND KW HOSPITAL ACQUISITION, LLC**

Original Proceeding

MEMORANDUM OPINION

JJJJ Walker, LLC, Dynafab USA, LLC, Renaissance Properties of Texas, LLC, Priya Properties, LLC, BD Texas, LLC, and KW Hospital Acquisition, LLC request mandamus relief from orders transferring venue of their suit to Harris County. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 15.0642 (Vernon 2002). Relators contend a mandatory venue statute controls venue for their litigation. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 15.011 (Vernon 2002).

Mandamus relief is appropriate when the record shows that the trial court improperly interpreted the mandatory venue provision. *In re Transcon. Realty Investors,*

Inc., 271 S.W.3d 270, 271 (Tex. 2008). If the substance of the dispute is one of the types of claims described in section 15.011, that statute controls venue for the case over any permissive venue statute. *In re Kerr*, 293 S.W.3d 353, 356 (Tex. App.--Beaumont 2009, orig. proceeding [mand. denied]). The relevant venue facts under section 15.011 include the nature of the suit and the location of the property. *Id.* The nature of the suit is determined from the facts alleged, the rights asserted, and the relief requested in the plaintiffs' petition. *Renwar Oil Corp. v. Lancaster*, 154 Tex. 311, 276 S.W.2d 774, 775 (1955).

The *Kerr* litigation essentially concerned a dispute over ownership of mineral interests. *In re Kerr*, 293 S.W.3d at 356. Here, the claims brought by relators tangentially concern hospital facilities located on real property in Jefferson County, but the essential dispute concerns the financial relationships of various corporations and the fiduciary duties arising out of those relationships. The substance of these claims involves neither recovering real property nor quieting title. *See Yzaguirre v. KCS Res., Inc.*, 53 S.W.3d 368, 371 (Tex. 2001). A resolution of the dispute will neither require the trial court to locate a survey nor determine the location of land, nor will the trial court declare rights in real property. *See In re Applied Chem. Magnesias Corp.*, 206 S.W.3d 114, 118 (Tex. 2006). Because the nature of the suit is not an action "for recovery of real property or an estate or interest in real property, for partition of real property, to remove encumbrances from the title to real property, for recovery of damages to real property, or

to quiet title to real property,” the trial court did not interpret section 15.011 improperly. See TEX. CIV. PRAC. & REM. CODE ANN. § 15.011; see generally *In re Transcon. Realty Investors, Inc.*, 271 S.W.3d at 271. Accordingly, mandamus is not an appropriate remedy. We deny the petition for writ of mandamus.

PETITION DENIED.

PER CURIAM

Opinion Delivered June 17, 2010
Before McKeithen, C.J., Gaultney and Kreger, JJ.