



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-16-00085-CV

LARRY J. ACKLE

APPELLANT

V.

SENECA INSURANCE CO., INC.
D/B/A EYDIE'S BAIL BONDS

APPELLEE

FROM THE 442ND DISTRICT COURT OF DENTON COUNTY
TRIAL COURT NO. 2012-20426-158

MEMORANDUM OPINION¹

Appellant Larry J. Ackle appeals from the trial court's final judgment in favor of Appellee Seneca Insurance Co., Inc. d/b/a Eydie's Bail Bonds (Eydie's). We affirm.

¹See Tex. R. App. P. 47.4.

Background

In April 2012, Ackle entered into multiple bail bond contracts with Eydie's to post bonds to secure his release from jail. The bail bond contracts required Ackle, among other things, to remain within the jurisdiction of the court and to report to Eydie's every Tuesday. In conjunction with each bail bond contract, Ackle also executed a "rules sheet," which also required him to report to Eydie's every Tuesday and prohibited him from leaving the state without permission. In addition to bond premiums, Ackle put up \$250,000 in cash as collateral for the bonds.

In May 2012, Victor Burgess, an agent for Eydie's bail bonds, executed and filed affidavits to surrender Ackle under article 17.19 of the code of criminal procedure, averring that Ackle failed to report to Eydie's as required, that Ackle left the jurisdiction of the court without permission, and that Victor feared he could not produce him for court. See Tex. Code Crim. Proc. Ann. art. 17.19 (West 2015). As a result, a warrant was issued for Ackle's arrest. Ackle then posted a \$250,000 cash bond. Eydie's returned the \$250,000 collateral to Ackle in August 2012, but he demanded additional funds from Eydie's.

Eydie's filed suit against Ackle, seeking a declaratory judgment that Ackle breached his obligations to Eydie's and that Eydie's was entitled to all monies Ackle paid to and deposited with Eydie's. Eydie's also asserted a breach of contract claim and sought attorney's fees. See Tex. Civ. Prac. & Rem. Code Ann. §§ 37.009, 38.001–.006 (West 2015). Ackle filed a counterclaim for breach

of contract, claiming that that Eydie's breached the agreements by filing the affidavits to surrender and by failing to refund the interest earned on the \$250,000 collateral.

After a bench trial, the trial court entered a declaratory judgment in favor of Eydie's, finding in part that "[Ackle] breached the contracts and [Eydie's] has no further duty under the contracts to [Ackle]." The trial court also awarded \$5,500 in attorneys' fees and all court costs to Eydie's.

Ackle timely requested findings of fact and conclusions of law. See Tex. R. Civ. P. 296. Eydie's served Ackle with proposed findings and conclusions and submitted them to the trial court. The trial court, however, never filed any findings or conclusions.

Ackle has appealed, raising four issues. In his first and second issues, Ackle—mistaken in his assumption that the trial court filed findings of fact and conclusions of law—challenges the legal and factual sufficiency of the evidence to support them. Ackle expressly waived these two issues during oral argument before this court, and we therefore do not consider them. We address Ackle's third and fourth issues below.

Standard of Review

In a trial to the court in which no findings of fact or conclusions of law are filed, the trial court's judgment implies all findings of fact necessary to support it. *Rosemond v. Al-Lahiq*, 331 S.W.3d 764, 766–67 (Tex. 2011); *Wood v. Tex. Dep't of Pub. Safety*, 331 S.W.3d 78, 79 (Tex. App.—Fort Worth 2010, no pet.). When

a reporter's record is filed, however, these implied findings are not conclusive, and an appellant may challenge them by raising both legal and factual sufficiency of the evidence issues. *Sixth RMA Partners, L.P. v. Sibley*, 111 S.W.3d 46, 52 (Tex. 2003); *Liberty Mut. Ins. Co. v. Burk*, 295 S.W.3d 771, 777 (Tex. App.—Fort Worth 2009, no pet.). When such issues are raised, the applicable standard of review is the same as that to be applied in the review of jury findings or a trial court's findings of fact. *Roberson v. Robinson*, 768 S.W.2d 280, 281 (Tex. 1989); *Liberty Mut. Ins. Co.*, 295 S.W.3d at 777. The judgment must be affirmed if it can be upheld on any legal theory that finds support in the record. *Rosemond*, 331 S.W.3d at 767; see also *Liberty Mut. Ins. Co.*, 295 S.W.3d at 777 (stating that the judgment must be affirmed if it can be upheld on any legal theory that finds support in the evidence).

Analysis

In his third and fourth issues respectively, Ackle argues that the trial court erred by rendering a declaratory judgment in Eydie's favor based on a finding that Ackle breached the contracts by traveling out of state and by otherwise holding that Ackle breached the contracts by traveling out of state. Ackle's arguments under these two issues—the bail bond contracts did not expressly prohibit him from leaving the state, the "rules sheets" were not incorporated into the bail bond contracts, and the rules sheets were unenforceable contracts because they lacked consideration—are based on whether Ackle breached the

contracts by leaving the state. But the trial court's judgment in favor of Eydie's may be upheld on another basis.

The bail bond contracts also required Ackle to report to Eydie's "every Tuesday without fail." At trial, Eydie Burgess, "the Eydie of Eydie's Bail Bonds," testified that Ackle failed to report to Eydie's on Tuesdays. The trial court admitted into evidence without objection the affidavits to surrender Ackle under article 17.19 of the code of criminal procedure. Victor Burgess stated in those affidavits that Ackle "failed to check in with the bond company every Tuesday, as agreed and required." The trial court therefore had sufficient evidence upon which to conclude that Ackle breached the bail bond contracts. We overrule Ackle's third and fourth issues.

Conclusion

Having overruled Ackle's third and fourth issues, we affirm the trial court's judgment.

/s/ Kerry FitzGerald
KERRY FITZGERALD
JUSTICE

PANEL: WALKER and MEIER, JJ.; and KERRY FITZGERALD (Senior Justice, Retired, Sitting by Assignment).

DELIVERED: January 26, 2017