

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-02-00135-CV

Ricardo de la Garza, Individually and on behalf of the absent class members; Ildelfonso de la Garza; Armand M. Garza, Individually and on behalf of the absent class members; Andres M. Garcia, Jr., Individually and on behalf of the absent class members, Appellants

v.

Gray & Becker, P.C., Appellee

**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 200TH JUDICIAL DISTRICT
NO. GN101682, HONORABLE JOHN K. DIETZ, JUDGE PRESIDING**

On March 14, 2002, all parties to the underlying district court judgment in trial court cause number GN101682, that being Gray and Becker, P.C., the plaintiff below, and the Class I Claimants and the Class II Claimants, the class action defendants below, filed a joint motion to dismiss this appeal for want of jurisdiction. These parties contend that appellants are without standing to appeal from the district court's underlying judgment because appellants were not parties of record before the district court rendered the final judgment and after their attempted intervention the district court severed all appellants and their claims into a new district court proceeding.

The underlying judgment in this cause resulted when Gray & Becker and the class action defendants sought to reduce the settlement of their dispute to a final judgment. The district court rendered judgment on November 20, 2001. Neither Gray & Becker nor the class action defendants filed a motion for new trial or sought any post-judgment relief. After November 20 and while the district court maintained plenary power over the cause, appellants moved to intervene. The district court ordered all of appellants and their claims severed into district court cause number GN104188.

Appellants were never parties to the judgment in district court cause number GN101682, and, following the severance order, appellants were not parties to the cause. Accordingly, appellants lack standing to appeal the judgment rendered in district court cause number GN101682. *See Preston v. American Eagle Ins. Co.*, 948 S.W.2d 18, 20 (Tex. App. CDallas, no writ) (citing *Continental Cas. Co. v. Huizar*, 740 S.W.2d 429, 430 (Tex. 1987)); *see also Gunn v. Cavanaugh*, 391 S.W.2d 723, 724 (Tex. 1965) (only parties of record before final judgment rendered may exercise a right of appeal). The district court severed all of appellants=claims into district court cause number GN104188, and we note that appellants have perfected an appeal from the final judgment in that cause.

The motion to dismiss the appeal for want of jurisdiction is granted. The motion to show authority and the motion for sanctions are overruled. The appellants=motion to consolidate this appeal with other related appeals is overruled. Gray & Becker=s motion to strike the appellants=motion to consolidate in this cause is dismissed. Appellants=motion to reverse orders on discovery with motion for protective order in this cause is dismissed.

The appeal is dismissed for want of jurisdiction.

Marilyn Aboussie, Chief Justice

Before Chief Justice Aboussie, Justices B. A. Smith and Yeakel

Dismissed for Want of Jurisdiction

Filed: May 2, 2002

Do Not Publish