

June 4, 2020



JUDGMENT

The Fourteenth Court of Appeals

BARBARA CARMICHAEL, HUGH CARMICHAEL, MARY DOYLE, ED KIEKE, JOY BLEVINS, CHARLIE SCOTT, ANGELA SOLCE, DAVID SOLCE, DONNA YACOE, PETER YACOE, AND NICOLE MCNALLY, ON BEHALF OF COMMERCE TOWERS CONDOMINIUM ASSOCIATION, INC.,
Appellants

NO. 14-18-01086-CV

V.

TARANTINO PROPERTIES, INC., PREMIER TOWERS LP, ANTHONY TARANTINO, JOHN P. FRESE, CHARLES L. VICKERS, AND COMMERCE TOWERS CONDOMINIUM ASSOCIATION, INC., Appellees

This cause, an appeal from the judgment signed December 4, 2018, which made final the order of May 8, 2018, granting a plea to the jurisdiction and dismissing the representative claims asserted by appellants Barbara Carmichael, Hugh Carmichael, Mary Doyle, Ed Kieke, Joy Blevins, Charlie Scott, Angela Solce, David Solce, Donna Yacoe, Peter Yacoe, and Nicole McNally, each of whom asserted claims on behalf of Commerce Towers Condominium Association, Inc. (“the Association”), against appellees Tarantino Properties, Inc., Premier Towers L.P., Anthony Tarantino, John P. Frese, Charles L. Vickers, and nominal defendant Commerce Towers Condominium Association, Inc., was heard on the appellate record. We have inspected the record and find the trial court erred in dismissing the appellants’ claims, on behalf of the Association, that Anthony Tarantino, John P. Frese, and Charles L. Vickers breached fiduciary duties to the Association by

committing acts that are “beyond the scope of the expressed purpose or purposes” of the Association or that are “inconsistent with an expressed limitation on the authority of an officer or director” of the Association. *See* TEX. BUS. ORGS. CODE ANN. § 20.002(c)(2). We therefore order that the portions of the judgment dismissing the appellants’ claims on the Association’s behalf that Anthony Tarantino, John P. Frese, and Charles L. Vickers breached fiduciary duties to the Association by committing *ultra vires* acts are **REVERSED**. Further, we find no error in the remainder of the judgment and order it **AFFIRMED**, and we order the case **REMANDED** for proceedings in accordance with this court’s opinion.

We order appellees Anthony Tarantino, John P. Frese, and Charles L. Vickers jointly and severally to pay all costs incurred in this appeal.

We further order this decision certified below for observance.

Judgment rendered June 4, 2020.

Panel consists of Justices Christopher, Bourliot, and Hassan. Opinion delivered by Justice Christopher.