Dismissed and Opinion filed April 6, 2000.

In The

Fourteenth Court of Appeals

NO. 14-00-00243-CV

WMF WASHINGTON MORTGAGE CORP. AND WMF ROBERT C. WILSON COMPANY, Appellants

V.

ROBERT C. WILSON, III, Appellee

On Appeal from the 333rd District Court
Harris County, Texas
Trial Court Cause No. 99-50680

O P I N I O N

This is an attempted appeal from an interlocutory order denying appellants' plea to the jurisdiction, signed February 18, 2000. Appellant's notice of appeal was filed March 1, 2000.

On March 17, 2000, appellee filed a motion to dismiss the appeal for want of jurisdiction. Appellee also requested sanctions under rule 45 alleging appellants had filed a frivolous appeal. *See* TEX. R. APP. P. 45. On March 24, 2000, appellants filed a response to the motion. In that response, appellants

admit there is no statutory provision authorizing an appeal from the denial of a plea to the jurisdiction. Appellants argue, however, that "equity and practical concerns" warrant special consideration. We disagree.

The first inquiry an appellate court must make in any case is whether it has jurisdiction to consider the appeal. *See Materials Evolution Dev., USA, Inc. v. Jablonowski*, 949 S.W.2d 31, 33 (Tex. App.--San Antonio 1997, no pet.); *McClennahan v. First Gibraltar Bank*, 791 S.W.2d 607, 608 (Tex. App.--Dallas 1990, no writ). If the appellate courts lacks jurisdiction, the appeal must be dismissed. *See id*. Generally, appellate jurisdiction exists only in cases in which a final judgment has been rendered that disposes of all issues and parties in the case. *See Jack B. Anglin Co., Inc. v. Tipps*, 842 S.W.2d 266, 268 (Tex. 1992). An interlocutory order is appealable only where such appeal is explicitly authorized by statute. *See Stary v. DeBord*, 967 S.W.2d 352, 352-53 (Tex. 1998); *Cherokee Water Co. v. Ross*, 698 S.W.2d 363, 365 (Tex. 1985). It is fundamental error for an appellate court to assume jurisdiction over an interlocutory appeal when it is not expressly authorized by statute. *See New York Underwriters Ins. Co. v. Sanchez*, 799 S.W.2d 677, 679 (Tex. 1990).

The legislature determines, by statute, whether a particular type of pretrial ruling is appealable before a final judgment is rendered. *See Dallas County Community College Dist. v. Bolton*, 990 S.W.2d 465, 467 (Tex. App.--Dallas 1999, no pet.). We strictly construe those statutes authorizing interlocutory appeals. *See id.*; *America Online, Inc. v. Williams*, 958 S.W.2d 268, 271 (Tex. App.--Houston [14th Dist.] 1997, no writ).

In this case, the legislature has determined that the grant or denial of a plea to the jurisdiction *by a governmental unit*, as that term is defined by section 101.001 of the Civil Practice and Remedies Code, may be challenged by interlocutory appeal. *See* TEX. CIV. PRAC. & REM. CODE ANN. §51.014(a)(8) (Vernon Supp. 2000) (emphasis added). It is undisputed that appellants are not "governmental units" as defined by section 101.001.

In its response to appellee's motion to dismiss, appellants argue that even if the order denying the plea to the jurisdiction is not appealable, this court still has jurisdiction because they have filed a notice of

appeal relevant to a second interlocutory order arising from the same hearing, which is appealable. This order was signed February 23, 2000, and denies a motion to compel arbitration. The appeal from the February 23, 2000, order has been assigned to this court and this court has opened the case and assigned it cause number 14-00-00362-CV. This second appeal is treated as a separate appeal and reviewed independently. All documents relevant to the appeal from the February 23, 2000, order have been renumbered to reflect the correct cause number, i.e., 14-00-00362-CV.

In conclusion, we hold we have no jurisdiction to consider this appeal from an interlocutory order denying appellants' plea to the jurisdiction. We find, however, that sanctions are not warranted, and therefore, deny appellee's motion for sanctions. *See Chapman v. Hootman*, 999 S.W.2d 118, 125 (Tex. App.--Houston [14th Dist.] 1999, no pet.) (holding that the court will impose sanctions "only where the record clearly shows appellant had no reasonable expectation of reversal, and that he did not pursue the appeal in good faith."); *see also* TEX. R. APP. P. 45.

Accordingly, the appeal is ordered dismissed.

PER CURIAM

Judgment rendered and Opinion filed on April 6, 2000.
Panel consists of Justices Amidei, Anderson, and Frost.
Do Not Publish — *See* TEX. R. APP. P. 47.3(b).