

Texas Court Holds That Venue Is Appropriate In County Where The Trustee Resided Under The Texas Trust Code, Which Trumps Other Venue Statutes

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In *Parker v. Filip*, a trust owned a limited partnership interest and the partnership owned real property in Fayette County, Texas. No. 14-23-00372-CV, 2023 Tex. App. LEXIS 6976 (Tex. App.—Houston [14th Dist.] August 31, 2023, no pet. history). Several limited partners sued the general partner and other limited partners, including the trustee of the trust, regarding the operation of the partnership in Fort Bend County, Texas, where the defendants resided. The defendants filed a motion to transfer venue to Fayette County, Texas, due to the real estate existing there. The trial court denied the motion, and the defendants appealed.

The court of appeals discussed the competing venue statutes:

Section 15.011 of the Civil Practice and Remedies Code provides that:

Actions 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 shall be brought in the county in which all or part of the property is located.

Tex. Civ. Prac. & Rem. Code § 15.011.

In its relevant parts, section 115.002 of the Property Code provides that:

The venue of an action under Section 115.001 of this Act is determined according to this section. If there is a single, noncorporate trustee, an action shall be brought in the county in which the trustee resides or has resided at any time during the four-year period preceding the date the action is filed.

Tex. Prop. Code § 115.002.

Section 115.002 of the Property Code is a separate statute from the Civil Practice and Remedies Code. Thus, we look to section 15.016 of the Civil Practice and Remedies Code for guidance because it provides that “[a]n action governed by any other statute prescribing

mandatory venue shall be brought in the county required by that statute.” “[I]f an action is governed by a separate mandatory venue provision, then the action shall be brought in the county required by the separate venue provision.”

As shown above in the analysis of proper pleading, this action is governed by a separate mandatory venue provision. Therefore, section 15.016 of the Civil Practice and Remedies Code requires that the mandatory venue provisions in section 115.002 of the Property Code prevail over section 15.011 of the Civil Practice and Remedies Code. See Tex. Civ. Prac. & Rem. Code § 15.016. There is no dispute that Rebecca is a noncorporate trustee of the Parker Trust and that both Rebecca and Brian resided in Fort Bend County in the four years preceding this suit.

Id. Thus, the court held that Fort Bend County controlled under the Trust Code and that the Trust Code prevailed over the Texas Civil Practice and Remedies Code.

The court also addressed an argument that the trustee was not really an interested party to the suit:

Instead, appellants argue that appellees reliance on section 115.002 fails because appellees “failed to allege facts showing they are ‘interested persons’” under section 115.011. See Tex. Prop. Code § 115.011 (“Any interested person may bring an action under Section 115.001 of this Act.”). Appellants suggest that because the suit does not invoke jurisdiction under section 115.001, the venue provisions of section 115.002 are inapplicable. We disagree.

Property Code section 115.001(a-1) provides,

The list of proceedings described by Subsection (a) over which a district court has exclusive and original jurisdiction is not exhaustive. A district court has exclusive and original jurisdiction over a proceeding by or against a trustee or a proceeding concerning a trust under Subsection (a) whether or not the proceeding is listed in Subsection (a).

Id. at § 115.001(a-1)... Applying the plain language of section 115.001 to the case at hand, this section applies to “all proceedings by or against a trustee.” See Tex. Prop. Code § 115.001. This statutory language is neither vague nor ambiguous. See Am. Nat’l Ins., 410 S.W.3d at 853. We conclude that since this is a proceeding against a trustee in accordance with section 115.001, the mandatory venue provision of section 115.002 applies. Accordingly, we overrule appellants’ first and fifth issue.

Id. The court thus affirmed the trial court’s order denying the motion to transfer venue because the trustee lived in the county of suit and the Trust Code’s venue provision controlled.

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