

NO. 02-19-00403-CV

IN THE
COURT OF APPEALS
FOR THE
SECOND DISTRICT OF TEXAS
FORT WORTH, TEXAS

IN RE: KEITH HALLS, JOHN “JT” THATCH, AND KIP A. ALLISON,

Relators.

CORRECTED EMERGENCY MOTION TO STAY PROCEEDINGS IN TRIAL
COURT

TO THE HONORABLE COURT OF APPEALS:

Relators Keith Halls, John “JT” Thatch, and Kip A. Allison file their
Emergency Motion for an Emergency Stay of Proceedings in Trial Court, in
accordance with Texas Rule of Appellate Procedure 52.10, as follows:

FACTS SUPPORTING EMERGENCY RELIEF

1. The underlying dispute in the trial court is between Plaintiff Robert
Oblon, Real Party in Interest herein, and Defendant Jordan Brock. The dispute
concerns a company named Alchemist Holdings, LLC.

2. Realtors are officers and directors of a company named Sharing
Services Global Corporation f/k/a Sharing Services, Inc., (“SHRG”), and are not
parties in the trial court.

3. On August 22, 2019, the trial court judge, Respondent herein, entered an Amended Temporary Restraining Order (“Amended TRO”) on an *ex parte* basis, at the request of the Real Party in Interest.

4. On September 11, 2019, Real Party in Interest filed a Motion to Show Cause in the trial court, requesting that Respondent order Realtors to appear and hold them in contempt for allegedly violating the Amended TRO issued on an *ex parte* basis, notwithstanding the fact that the applicable rules governing the issuance of an *ex parte* TRO have not been met. TEX. R. CIV. P. 680.

5. A preliminary hearing on the Real Party in Interest’s Motion to Show Cause was held October 17, 2019, at which time Realtors specially appeared and argued among other points, that the Amended TRO was void *ab initio* because it failed to satisfy the requirements of Rule 680 of Texas Rule of Civil Procedure -- that it did not specifically state why the Amended TRO was granted without notice to anyone.

6. At the hearing on October 17, 2019, the Court requested that counsel for Realtors and Real Party in Interest file supporting briefs concerning the issue of whether the TRO was void *ab initio*, continuing the remaining portion of the Show Cause hearing until November 4, 2019.

7. Thereafter, the Respondent ruled that the Amended TRO was not void *ab initio* and ordered Relators to appear at the hearing on the Motion to Show Cause on November 4, 2019.

8. On October 31, 2019, Relators filed their Petition for Writ of Mandamus with this Court.

ARGUMENT

Emergency Temporary Relief is justified

Realtors have filed a Petition for Writ of Mandamus and now seek on an emergency basis to stay the underlying proceedings in the trial court, pending this Court's consideration of the Petition for Writ of Mandamus on its merits.

“The relator may file a motion to stay any underlying proceedings or for any other temporary relief pending the court's action on the petition.” TEX. R. APP. P. 52.10(a). Moreover, in order to maintain the *status quo* while at the same time preserving the Court's jurisdiction, Rule 52.10 authorizes this Court to grant temporary relief “pending the court's action on the petition.” TEX. R. APP. P. 52.10(b).

Realtors' Petition for Writ of Mandamus contends that the Amended TRO entered by the Court is clearly void and thus an abuse of the trial court's discretion. “A trial court abuses its discretion when it issues a void order.” *In re Elevacity, LLC*, No. 05–18–00135–CV, 2018 WL 915031, at *2 (Tex. App.—Dallas Feb. 16, 2018, no pet.) (citing *Decker v. Lindsay*, 824 S.W.2d 247, 249 (Tex. App. – Houston [1st Dist.] 1992, no writ). “Mandamus relief may be afforded where the trial court's order is void.” *Decker v. Lindsay*, 824 S.W.2d 247, 249 (Tex. App. – Houston [1st Dist.] 1992, no writ) (citation omitted).

Moreover, given Respondent's ruling(s) on the Amended TRO, Realtors are now subject to appear at a hearing on November 4, 2019, in four (4) days, in which Real Party in Interest alleges and requests that Realtors be held in contempt, including potential fine(s) or confinement. Thus, Realtors' liberty and property are threatened by an action predicated entirely upon a void order. A void temporary restraining order will not support an order of contempt for alleged noncompliance with the order. *Ex Parte Leshner*, 651 S.W.2d 734, 736 (Tex. 1983) (holding that temporary restraining order was void on its face and "will not support an order of contempt."); accord *In re Garza*, 126 S.W.3d 268, 271 (Tex. App.—San Antonio 2003, no pet.) ("A void order has no force or effect and confers no rights; it is a mere nullity. . . . a trial court that holds a party in contempt for violating a void order necessarily abuses its discretion."). Accordingly, Realtors are required to seek mandamus relief from this Court, as well as this emergency request for a stay of all proceedings in the trial court related to the Amended TRO, including the presently scheduled hearing on the Motion to Show Cause set for November 4, 2019, lest they be unjustly and improperly subject to contempt proceedings based on a void court order.

Therefore, Realtors, non-parties in the underlying action, argue that the requested emergency stay is necessary in order maintain the *status quo* and to preserve this Court's jurisdiction to consider the merits of the original proceeding, and assert that this Court has the power to grant said relief.

CONCLUSION

The issues herein, which are the subject of Realtors' Petition for Writ of Mandamus, involve violation of Realtors' liberty, property and due process rights. Therefore, the rights of Realtors, non-parties in the underlying action, should be preserved by this Court as set forth in their Petition for Writ of Mandamus previously filed herein before any further action is taken in the underlying action.

PRAYER

For the reasons stated in this Emergency Motion, Non-Parties Keith Halls, John "JT" Thatch, and Kip A. Allison respectfully request that the Court issue an emergency stay of any proceedings in the trial court involving Relators, including the hearing on the Motion to Show Cause set for November 4, 2019, in order to maintain the *status quo* of the parties and preserve the Court's jurisdiction to consider the merits of Realtor's original proceeding. Realtors further seek all other and further relief to which they may be entitled.

Respectfully submitted,

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ATTORNEYS FOR RELATORS

RULE 52.10(a) CERTIFICATION

As required by Texas Rule of Appellate Procedure 52.10(a), I certify that I have notified all parties by expedited means (email) that this corrected motion for temporary relief has been or will be filed.

/s/ Scott R. Meyer

Scott R. Meyer

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent by e-mail or e-service to all counsel of record in the underlying proceeding on the 31st day of October 2019.

/s/ Scott R. Meyer

Scott R. Meyer

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