

The Court's order of October 20, 2020 implicitly determined that Plaintiffs could not recover the land in controversy on their direct claims asserted against the WOWSC, but that there was no limitation on the remedies available under Section 20.002(c)(2) and therefore Plaintiffs could proceed on their claims under said Section against the former and current directors named individually and could seek to unwind a fully performed transaction. No direct claims against the WOWSC were tried to the jury; however, the WOWSC remained a nominal party for purposes of facilitating any judgment reversing the land transaction through Plaintiffs' representative claims against Dana Martin and Friendship Homes & Hangars, LLC (collectively, the "Martin Defendants") and/or facilitating any judgment awarding relief under Section 22.512, Tex. Bus. Org. Code.

The Court's order of May 3, 2021, granted take-nothing summary judgments as to all claims against Defendants William Earnest, Thomas Michael Madden, Robert Mebane, Patrick Mulligan, Joe Gimenez, Mike Nelson, and Dorothy Taylor (collectively, "Director Defendants") alleged in Plaintiffs' Third Amended Original Petition. Such claims were not tried to the jury.

The Court's order of July 26, 2021, granted summary judgment in favor of Defendants Johann Anton Mair (for whom Darby Mair, Independent Administrator of the Estate of Johann Mair, deceased, was subsequently substituted) and Michael Mair (collectively "Mair Defendants"). No claims against the Mair Defendants or their property were tried to the jury.

The Court's order of July 22, 2022 denied leave for Plaintiffs' to file their Fourth Amended Original Petition alleging causes of action based on acts and omissions occurring after the date of their Third Amended Original Petition. No such claims were ~~or could have been~~ tried to the jury. *MM*

On November 14, 2022, this case was called for trial and all parties appeared through counsel and announced ready for trial. A jury of twelve jurors and two alternates were duly

impaneled. Based on the pretrial rulings described above, the case was ^{tried} tied to the jury. Having received and considered the jury's unanimous verdict and having considered the parties' respective post-verdict motions and responses, the Court is of the opinion that (i) the Mair Defendants' motion for judgment based on the Court's order of July 26, 2021 should be granted, (ii) the Director Defendants' motion for judgment based on the Court's order of May 3, 2021 should be granted as to the claims alleged in Plaintiffs' Third Amended Original Petition, (iii) Friendship Homes & Hangars' motion for judgement notwithstanding the verdict should be denied, (iv) Plaintiffs' motion for judgment should be denied as to the enforcement of a constructive trust and granted in part as and to the extent set forth below, and (v) the WOWSC's motion for judgment based on the Court's order of February 24, 2020 should be granted in part as and to the extent set forth below.

MM

It is, therefore, ORDERED, ADJUDGED AND DECREED as follows:

1. That, except as necessary to facilitate the judgment set forth in paragraph 5 below, Plaintiffs shall take nothing on their claims against WOWSC asserted in their Third Amended Original Petition.
2. That Plaintiffs, individually and as representatives of the WOWSC, shall take nothing on their claims against the Director Defendants alleged in their Third Amended Original Petition.
3. That Plaintiffs, as representatives of the WOWSC, shall take nothing on their claims against the Mair Defendants alleged in their Third Amended Original Petition.
4. That Plaintiffs, for and on behalf of the WOWSC, shall have and recover judgment on the claims alleged in their Third Amended Petition against Dana Martin and Friendship Homes & Hangars, LLC, jointly and severally, in the amount of \$70,000.00, which amount shall be reduced dollar-for-dollar by the judgment rendered in favor of Plaintiffs in paragraph 5 below.

The remainder of such judgment (or \$35,000) may be collected in full by the WOWSC.


5. That for purposes of reimbursing a portion of Plaintiffs' expenses obtaining a recovery in favor of the WOWSC, Plaintiffs shall have and recover judgment against Dana Martin and Friendship Homes & Hangars, LLC, jointly and severally, in the amount of \$35,000.00, which amount may be collected in full by any one of Plaintiffs or by two or more of them acting together.

6. That execution may be issued in favor of the WOWSC and/or Plaintiffs, respectively, in connection with the judgments entered in paragraphs 4 and 5 above.

7. That all other relief not expressly granted herein is denied.

This is a Final Judgment that disposes of all claims by all parties and is final and appealable.

SIGNED on this 28th day of March 2023.


MARGARET MIRABAL
DISTRICT COURT JUDGE, *Presiding*

APPROVED AS TO FORM ONLY:

THE LAW OFFICE OF KATHRYN E. ALLEN, PLLC
114 W. 7th St., Suite 1100
Austin, Texas 78701
(512) 495-1400 telephone
(512) 499-0094 fax

By: /s/ Kathryn E. Allen
Kathryn E. Allen
State Bar ID No. 01043100
kallen@keallenlaw.com

Attorneys for Plaintiffs