

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20126
Summary Calendar

WILLIAM L. ROSE; ET AL.,

Plaintiffs,

WILLIAM L. ROSE; ANNETTE ROSE; MICHELLE SPEETZEN;
WOODROW MILLER; WILLIAM J. RUSSELL,

Plaintiffs-Appellants,

versus

FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC.;
SUGARLAND PROPERTIES INCORPORATED;
DENNIS GUERRA; LES A. NEWTON; ERNEST W. MEYER;
STEPHEN J. EWBANK; L. MICHAEL COX; HUGH TUCKER;
LYNN MORRIS; JACK MOLHO; ARDEN MEYERS; KEVIN WEIDO;
DEBBIE WALLIS; FRANK YONISH; STEVEN H. MERCADAL,

Defendants-Appellees.

WILLIAM L. ROSE; ET AL.,

Plaintiffs,

WILLIAM L. ROSE; ANNETTE ROSE,

Plaintiffs-Appellants,

versus

FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC.;
SUGARLAND PROPERTIES INCORPORATED; DENNIS GUERRA;
LES A. NEWTON; ERNEST W. MEYER; STEPHEN J. EWBANK;
L. MICHAEL COX; HUGH TUCKER; LYNN MORRIS; JACK MOLHO;
ARDEN MEYERS; KEVIN WEIDO; DEBBIE WALLIS;
FRANK YONISH; STEVEN H. MERCADAL,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC Nos. H-97-CV-2097, H-97-CV-2141, H-98-CV-244

December 6, 2000

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges:

PER CURIAM:*

Appellants have appealed the district court's order denying their motion under Fed. R. Civ. P. 60(b)(6) for relief from the district court's judgment taxing costs against them under Fed. R. Civ. P. 54(d)(1). Although the district court dismissed the appellants' federal causes of action with prejudice, the appellants argue that they, and not the appellees, were the prevailing parties in the district court because the appellees' state-law counterclaims were dismissed and because there was no award of sanctions. "The case must be viewed as a whole to determine who was the 'prevailing party'; a party need not prevail on every issue in order to be entitled to costs." Fogleman v. ARAMCO (Arabian American Oil Co.), 920 F.2d 278, 285 (5th Cir. 1991). The district court did not abuse its discretion in denying the Rule 60(b)(6) motion. See Batts v. Tow-Motor Forklift Co., 66 F.3d 743, 747 (5th Cir. 1995) (standard of review). Because the appeal is frivolous, it is DISMISSED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5th Cir. Rule 42.2.

APPEAL DISMISSED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.