

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 11, 2022

Lyle W. Cayce
Clerk

No. 21-10068

TANGO MARINE S.A.,

Plaintiff—Appellee,

versus

ELEPHANT GROUP LIMITED; ELEPHANT GROUP, P.L.C.,

Defendants—Appellants.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CV-42

ON PETITION FOR REHEARING

(Opinion, December 3, 2021, 5TH CIR., 19 F.4TH 808)

Before JONES, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

No. 21-10068

Because of the absence of a request for a poll of the en banc court, this panel will treat the petition as one for panel rehearing. FED. R. APP. P. 40; 5TH CIR. R. 40. We will deny rehearing and again affirm the district court judgment, but we will also withdraw our prior opinion. Consequently, we address a few points about the effect of our affirmance.

The Plaintiff's amended complaint asserted jurisdiction in the Northern District of Texas despite its acknowledgement that the "Defendants cannot be found in this District within the meaning of Supplemental Rule B." That cited rule allows for suit in a district in which a defendant cannot be found on the basis of a complaint that seeks attachment of a defendant's assets in the district in the hands of garnishees. FED. R. CIV. P., SUPP. RULE B. The amended complaint identified several garnishees in the district and sought issuance of process for attachment and garnishment of the Defendants' property in their possession of a value "up to the amount of at least \$4,510,058.20 (principal damages as set out above, \$50,000 for interest, costs and attorneys' fees) to secure Tango's claims." The extent of the relief the judgment grants against the Defendants is defined by the jurisdiction asserted under Supplemental Rule B.

After review of the briefs and record and consideration of oral argument, we conclude that the district court committed no reversible error in granting judgment. We AFFIRM.

We withdraw our prior opinion. *See Tango Marine S.A. v. Elephant Grp. Ltd.*, 19 F.4th 808 (5th Cir. 2021). The panel specifically withdraws its interpretation of *Great Prize, S.A. v. Mariner Shipping Party, Ltd.*, 967 F.2d 157, 159 (5th Cir. 1992). *See id.* at 814. What *Great Prize* means can be left for an appeal in which its meaning matters. It does not in this case.

The petition for rehearing is DENIED.