

Cite as 2022 Ark. App. 364

ARKANSAS COURT OF APPEALS

DIVISION I

No. CV-19-764

RONALD E. DANA AND LINDA D.
DANA

APPELLANTS

V.

DIAMANTE MEMBERS CLUB, INC.;
AND DIAMANTE, A PRIVATE
MEMBERSHIP GOLF CLUB, LLC

APPELLEES

Opinion Delivered September 28, 2022

APPEAL FROM THE SALINE
COUNTY CIRCUIT COURT
[NO. 63CV-2018-955]

HONORABLE GRISHAM PHILLIPS,
JUDGE

AFFIRMED

RITA W. GRUBER, Judge

This is a companion case to *Faigin v. Diamante Members Club, Inc.*, 2022 Ark. App. 361, 653 S.W.3d 383, also handed down today. The background facts and procedural history are set out in that opinion. Only facts specific to appellants will be detailed below. Appellants, Ronald E. Dana¹ and Linda D. Dana (collectively “appellants”) own property within the Diamante subdivision located in Hot Springs Village, Arkansas. The appellees, Diamante, A Private Membership Golf Club, LLC; and Diamante Members Club, Inc. (collectively “appellees”), respectively, are the former and current owners of a private golf club associated with the developed subdivision.

¹On September 8, 2022, counsel for appellants filed a notice of suggestion of death informing this court that appellant, Ronald E. Dana, died on September 6, 2022. Mr. Dana’s death is thereby noted for the record.

In this appeal, appellants argue the same points on appeal as the appellants in *Faigin*. As detailed in *Faigin*, res judicata precludes appellants' claims; thus, we affirm the circuit court's application of the doctrine and grant of summary judgment to Diamante Members Club, Inc. (the "New Club").

I. *Background Facts*

Appellants purchased two lots in the Diamante subdivision, one in 1998 and the other in 2002. In or around 2013, appellants ceased making their monthly club payments. On June 13, 2018, New Club filed liens on the lots and subsequently filed suit to foreclose the liens on July 9, 2018. On May 31, 2019, the circuit court entered a final judgment and decree of foreclosure granting summary judgment to New Club on the basis of res judicata. The court awarded attorney's fees to New Club on July 19, 2019, and appellants filed timely notices of appeal.

II. *Discussion*

The circuit court concluded that appellants were attempting to relitigate claims that had previously been decided, or could have been decided, in *Dye v. Diamante, a Private Membership Golf Club, LLC*, 2017 Ark. 42, 510 S.W.3d 759, and applied the doctrine of res judicata. For the reasons set forth in *Faigin*, 2022 Ark. App. 361, 653 S.W.3d 383, and incorporated herein by reference, we hold that the circuit court properly applied res judicata in granting New Club's motion for summary judgment.

Furthermore, appellants' argument on appeal that they were not parties in *Dye* was addressed in another companion case, *Dana v. Diamante Members Club, Inc.*, 2022 Ark. App.

365, also handed down today, and for the reasons set forth therein and incorporated here by reference, we find no merit to this argument.

III. *Conclusion*

We find that all the requirements of claim preclusion are met; accordingly, the circuit court's order granting summary judgment to New Club is affirmed. Having concluded that res judicata bars relitigation of appellants' claim, we need not consider the other points on appeal.

Affirmed.

GLADWIN and BARRETT, JJ., agree.

Robert S. Tschiemer, for appellants.

Schnipper, Britton & Stobaugh, by: *Beau Britton*, for separate appellee Diamante Membership Club, Inc.