

YELLOW CAB CO. OF TEXARKANA *v.* TEXARKANA
MUNICIPAL AIRPORT.

5-1838

322 S. W. 2d 688

Opinion delivered April 13, 1959.

1. CONSTITUTIONAL LAW—NECESSITY FOR DETERMINING QUESTIONS OF.—Constitutional questions will not be decided if a decision can be reached on any other ground.
2. CONTRACTS—AMBIGUITY, PAROL OR EXTRINSIC EVIDENCE TO EXPLAIN.—Lease ran for a term of 60 months, commencing on July 1, 1956, and on July 1st in each year thereafter, on the same terms and conditions as herein set forth, unless either party hereto shall give to the other notice at least 30 days before the commencement of such additional period of its intention to terminate. *HELD*: The contract was susceptible to more than one reasonable construction and the trial court did not err in admitting evidence of the negotiations.
3. CONTRACTS—CONSTRUCTION, PURPOSES OF.—The object to be attained in interpreting a contract is to ascertain the meaning and intent of the parties.
4. CONTRACTS—TERMINATION, CONSTRUCTION OF PROVISIONS WITH REFERENCE TO.—Chancellor's finding, that lease contract in question was terminable at the beginning of each 12 month period of the

II.

The trial court erred in holding that Ordinance B-746 was unconstitutional.

Point two will be discussed first.

Appellant's counsel forcefully contended throughout the trial as follows: "I want the Court to understand that we are not suing on the ordinance. We are suing on the contract . . . I am not introducing the ordinance; only the contract. That is all I am interested in." In compliance with appellant's contentions and since it has long been the rule of this Court not to pass on constitutional questions when a decision can be reached on other grounds, we will not go into the constitutionality of Ordinance B-746. *Duncan v. Kirby*, 228 Ark. 917, 311 S. W. 2d 157.

Section 2 of the contract is as follows:

"The term of this lease shall be 60 months, commencing on July 1, 1956, and on July 1st in each year thereafter, on the same terms and conditions as herein set forth, unless either party hereto shall give to the other notice at least 30 days before the commencement of such additional period of its intention to terminate this lease, in which event this lease shall terminate on the 1st day of July in the year in which such notice is given."

Appellees rely upon Section 2 of the contract as authority in the Airport Authority to terminate the exclusive contract by giving appellant 30 days' notice prior to July 1, 1958, of its intention to terminate, which notice was given within the time specified.

Under point one appellant argues that the issues before the Court are: (1) Is the contract so ambiguous as to justify the trial court in admitting, over objections of the appellant, evidence of negotiations and construction by appellees as to the meaning of Section 2; and (2) did the section give the Texarkana Airport Authority the power to cancel the contract by giving 30 days' notice of its intention to cancel at a time within, and before the expiration of, the 60-month term of the lease?

tract was granted to the plaintiff for 60 months, or five years, and that 60 months, or five years in order to make it easy to understand, is divided into five one-year periods. The thing that is so likely to mislead us in construing this contract, is which date do we start from? July 1, 1956, or July 1, 1961, at the end of the five year period? It is clear to the court that the intentions of the parties were to start counting from July 1, 1956, and on each annual period thereafter, which would be July 1st of each year, either party to this contract could give the other party notice 30 days before the beginning of the next annual period of the contract and that this notice would terminate the remainder of the contract.”

In addition to what we have said above, we also call attention to the settled rule of this Court that contracts are always construed most strongly against the one preparing them, *W. T. Rawleigh Co. v. Wilkes*, 197 Ark. 6, 121 S. W. 2d 886. Therefore, we cannot say that the Chancellor’s opinion was against the weight of the evidence.

Affirmed.
