

FILED: June 16, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1452
(1:18-cv-03309-PJM)

FEDERAL TRADE COMMISSION,

Plaintiff - Appellee,

and

MARC-PHILIP FERZAN, of Ankura Consulting Group, LLC,

Receiver - Appellee,

v.

LUKE CHADWICK, individually and as an officer or owner of Global Property Alliance, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize); EXOTIC INVESTER LLC, d/b/a Coldwell Banker Belize, d/b/a Coldwell Banker Southern Belize, a limited liability company organized under the laws of St. Kitts and Nevis; PRODIGY MANAGEMENT GROUP, LLC, a Wyoming limited Liability Company,

Defendants - Appellants,

MANGO SPRINGS DEVELOPMENT LTD. (BELIZE),

Party-In-Interest - Appellant,

and

ANDRIS PUKKE, a/k/a Marc Romeo, a/k/a Andy Storm, individually and as an officer or owner of Global Property Alliance, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize); PETER BAKER,

individually and as an officer or owner of Global Property Alliance, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize); ECOLOGICAL FOX, LLC, a Maryland limited liability company; GLOBAL PROPERTY ALLIANCE, INC., a California corporation, also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize, Sittee River Wildlife Reserve, Buy Belize, Buy International; SITTEE RIVER WILDLIFE RESERVE, d/b/a Sanctuary Bay, d/b/a Sanctuary Belize, d/b/a The Reserve, an entity organized under the laws of Belize; BUY BELIZE, LLC, d/b/a Sanctuary Bay, d/b/a Sanctuary Belize, d/b/a The Reserve, d/b/a Kanantik, d/b/a Laguna Palms, d/b/a Bamboo Springs, a California limited liability company; BUY INTERNATIONAL, INC., d/b/a Sanctuary Bay, d/b/a Sanctuary Belize, d/b/a The Reserve, d/b/a Kanantik, d/b/a Laguna Palms, d/b/a Bamboo Springs, a California corporation; FOUNDATION DEVELOPMENT MANAGEMENT INC., a California corporation; ECO FUTURES DEVELOPMENT, d/b/a Sanctuary Bay, d/b/a Sanctuary Belize, d/b/a The Reserve, a company organized under the laws of Belize; POWER HAUS MARKETING, a California corporation; BRANDI GREENFIELD, individually and as an officer or owner of Global Property Alliance, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize); BG MARKETING, LLC, an Oklahoma limited liability company; PRODIGY MANAGEMENT GROUP, LLC, a Wyoming limited liability company; JOHN USHER, individually and as an officer or owner of Sittee River Wildlife Reserve (also doing business as Sanctuary Bay, Sanctuary Belize, and The Reserve) and Eco-Futures Belize Limited (also doing business as Sanctuary Bay, Sanctuary Belize, and The Reserve); ROD KAZAZI, individually and as an officer or owner of Global Property Alliance, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, Bamboo Springs, Eco Futures, Eco Futures Development, Eco Futures Belize); FOUNDATION PARTNERS, f/k/a Red Crane Advisors, Inc., a California corporation; FRANK COSTANZO, a/k/a Frank Green, a/k/a Frank Peerless Green, a/k/a Frank Connelly, a/k/a Frank Connelly-Costanzo, individually and as officer or owner of Ecological Fox, LLC, Buy International, Inc. (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, and Bamboo Springs), and Foundation Development Management, Inc.); BELIZE REAL ESTATE AFFILIATES, LLC, d/b/a Coldwell Banker Belize, d/b/a Coldwell Banker Southern Belize, a limited liability company organized under the laws of St. Kitts and Nevis; EXOTIC INVESTOR, LLC, d/b/a Coldwell Banker Belize, d/b/a Coldwell Banker Southern Belize, a limited liability company organized under the laws of St. Kitts and Nevis; SANCTUARY BELIZE PROPERTY OWNERS' ASSOCIATION, d/b/a The Reserve Property Owners' Association, a Texas non-profit corporation; ANGELA CHITTENDEN; BEACH BUNNY HOLDINGS, LLC, a California limited liability company; THE ESTATE

OF JOHN PUKKE, a/k/a The Estate of Janis Pukke, a/k/a The Estate of John Andris Pukke; JOHN VIPULIS; DEBORAH CONNELLY; NEWPORT LAND GROUP, LLC, a/k/a Laguna Palms, a/k/a Sanctuary Belize, a/k/a Bamboo Springs, a/k/a The Reserve, a Wyoming limited liability company; MICHAEL SANTOS, a/k/a Sanctuary Bay, a/k/a Sanctuary Belize, a/k/a The Reserve, a/k/a Kanantik, a/k/a Laguna Palms, a/k/a Bamboo Springs, a/k/a Eco Futures, a/k/a Eco Futures Development, a/k/a Eco Future Belize, a/k/a Sittee River Wildlife Reserve, a/k/a Buy Belize, a/k/a Buy International, a/k/a Buy Belize, LLC, (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Laguna Palms, and Bamboo Springs), a/k/a Buy International, Inc., (also doing business as Sanctuary Bay, Sanctuary Belize, The Reserve, Kanantik, Lagunal Palms, and Bamboo Springs), Individually and as an officer or owner of Global Property Alliance, Inc; AMERIDEBT, INCORPORATED; DEBTWORKS, INCORPORATED; PAMELA PUKKE, a/k/a Pamela Shuster; ATLANTIC INTERNATIONAL BANK, LTD, a company organized under the laws of Belize; ECO-FUTURES BELIZE LIMITED, d/b/a Sanctuary Bay, d/b/a Sanctuary Belize, d/b/a The Reserve, a California Corporation; SOUTHERN BLAZE REALTY, LLC, a limited liability company organized under the laws of Belize,

Defendants,

CROSS-FREDERICK ASSOCIATES, LLC; FOLEY & LARDNER LLP,

Respondents,

UNITED STATES OF AMERICA,

Creditor,

JERRY BROWN; STEPHANIE BROWN; DELANEY CARLSON; THERESA EDELEN; BILL EWING; CHERYL EWING; CRAIG HIBBERT; TRISHA HIBBERT; LISA MULVANIA; RICHARD MULVANIA; CINDY REEVES; DAVID REEVES; PENNY SCRUTCHIN; THOM SCRUTCHIN; CLIFF SMITH; TERRI SMITH; PHILLIP WATFORD; ANGELA WATFORD; THE HAMPSHIRE GENERATIONAL FUND LLC; DAVID PORTMAN; HARVEY SCHULTZ; STEVEN M. SCHULTZ; JONATHAN B. SCHULTZ; JOHN A. SARACENO; STEPHANIE BROWN,

Intervenors,

CHAPTER 11 TRUSTEE,

Trustee.

O R D E R

In this enforcement action brought by the Federal Trade Commission (FTC), three defendants and four nonparties noted an appeal from the district court’s final order confirming that certain assets are subject to the control of a court-appointed receiver. The FTC moves to dismiss, and both sides agree that the appeal is now moot as to the three defendants—Luke Chadwick, Exotic Investor, LLC, and Prodigy Management Group, LLC—each of whom subsequently entered a settlement agreement with the FTC. The issue that remains is whether the other four would-be appellants—Mango Springs Development Ltd., G&R Development Company of Belize, Ltd.; Palmaya Development, Ltd.; and Mango Springs Development, LLC (collectively, the “Kanantik Entities”)—may pursue this appeal even though they were not parties to the action below. Because we conclude that the Kanantik Entities lack nonparty appellate standing, we grant the FTC’s motion to dismiss.

“Generally, nonparties to proceedings in the district court may not appeal from a district court’s judgment.” *Sky Cable, LLC v. DIRECTV, Inc.*, 886 F.3d 375, 384 (4th Cir. 2018). “A limited exception arises if a nonparty has an interest in the litigation and actively participated in the particular stage of district court proceedings that is challenged on appeal.” *Id.*; see *Doe v. Pub. Citizen*, 749 F.3d 246, 259 (4th Cir. 2014) (discussing “nonparty appellate standing”).

The Kanantik Entities fail to identify any evidence demonstrating their active participation in the proceedings related to the contested receivership order. Furthermore, we are unpersuaded that the Kanantik Entities could not have moved to intervene simply because the district court had already concluded its bench trial. *See United Airlines, Inc. v. McDonald*, 432 U.S. 385, 394 (1977) (holding that postjudgment motion to intervene was timely where movant sought to intervene “as soon as it became clear” that her interests were not being protected by the parties involved). And on this point, it bears noting that the FTC broached the receivership issue a full year before entry of the order on appeal, belying any suggestion that the Kanantik Entities lacked adequate time to address this issue in the district court.

Accordingly, we grant the FTC’s motion, dismiss the appeal as moot as to the three appealing defendants, and dismiss the appeal as to the Kanantik Entities for lack of nonparty appellate standing.

Entered at the direction of the panel: Judge Harris, Judge Richardson, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk