Affirmed and Opinion filed November 8, 2001.

In The

Fourteenth Court of Appeals

NO. 14-00-01472-CV

BEAUREGARD STUBBLEFIELD, SR. and BARBARA H. STUBBLEFIELD, Appellants

V.

HARRIS COUNTY APPRAISAL DISTRICT and HARRIS COUNTY APPRAISAL REVIEW BOARD, Appellees

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On Appeal from the 157th District Court
Harris County, Texas
Trial Court Cause No. 99-38034

O P I N I O N

Appellants, Beauregard Stubblefield, Sr. and Barbara H. Stubblefield, appeal the trial court's take-nothing judgment entered in favor of appellees, the Harris County Appraisal District and the Harris County Appraisal Review Board. We affirm.

I. BACKGROUND

On July 27, 1999, the Stubblefields filed a petition in district court challenging the Harris County Appraisal Review Board's appraisal value of one property for the 1998 and 1999 tax years and the appraisal value of another property for the 1999 tax year. The Stubblefields subsequently challenged in their first and second amended petitions the appraisal values of ten additional properties for the 1999 tax year. When the case was called to trial on October 23, 1996, the Stubblefields failed to appear. The trial court accordingly entered a take-nothing judgment against the Stubblefields.

II. LACK OF NOTICE

In their sole point of error, the Stubblefields complain the trial court erred in entering a take-nothing judgment based on their failure to appear at trial because they never received a scheduling order containing the trial setting. The trial court's scheduling order does not appear in the appellate record.[1] However, notice of a trial setting ordinarily does not, and need not, affirmatively appear in the record. *Bruneio v. Bruneio*, 890 S.W.2d 150, 155 (Tex. App.—Corpus Christi 1994, no writ); *see also Garcia v. Arbor Green Owners Ass'n, Inc.*, 838 S.W.2d 800, 803 (Tex. App.—Houston [1st Dist.] 1992, writ denied) (stating rules of procedure do not impose duty on trial court to place in case file evidence that notice of trial setting was given). Instead, the law presumes the trial court will hear a case only after proper notice has been given to the parties. *Osborn v. Osborn*, 961 S.W.2d 408, 411 (Tex. App.—Houston [1st Dist.] 1997, pet. denied); *Delgado v. Hernandez*, 951 S.W.2d 97, 99 (Tex. App.—Corpus Christi 1997, no writ); *Turner v. Ward*, 910 S.W.2d 500, 505 (Tex. App.—El Paso 1994, no writ). The party challenging the trial court's judgment has the burden to affirmatively show lack of notice by affidavit or other competent evidence.

[1] Appellees apparently attempted to supplement the reporter's record with the trial court's scheduling order. The inclusion of the scheduling order, however, is not necessary to our disposition of this appeal.

Bruneio, 890 S.W.2d at 155; *Welborn-Hosler v. Hosler*, 870 S.W.2d 323, 328 (Tex. App.—Houston [14th Dist.] 1994, no writ); *Jones v. Texas Dep't of Pub. Safety*, 803 S.W.2d 760, 761 (Tex. App.—Houston [14th Dist.] 1991, no writ).

We conclude the Stubblefields have waived any error on appeal by failing to file a motion for new trial supported by affidavit or other competent evidence with trial court complaining of lack of notice. *See* TEX. R. CIV. P. 324. Because the Stubblefields have not satisfied their burden of affirmatively showing lack of notice, their sole point of error is overruled. Accordingly, the judgment of the trial court is affirmed.

/s/ J. Harvey Hudson
Justice

Judgment rendered and Opinion filed November 8, 2001.
Panel consists of Justices Anderson, Hudson, and Frost.
Do Not Publish — TEX. R. APP. P. 47.3(b).