

COURT OF APPEALS  
EIGHTH DISTRICT OF TEXAS  
EL PASO, TEXAS

BARBARA MOSS-SCHULZE,	§	No. 08-07-00098-CV
Appellant,	§	Appeal from the
v.	§	73rd Judicial District Court
EMC MORTGAGE CORPORATION,	§	of Bexar County, Texas
Appellee.	§	(TC# 2005-CI-06777 )
	§	

**OPINION**

Pending before the Court is Appellee, EMC Mortgage Corporation's ("EMC") motion to dismiss this appeal. Finding that the property which was the subject of the underlying lawsuit has been sold, we will dismiss the appeal as moot.

Appellant, Ms. Barbara Moss-Schulze purchased the property at issue in January of 2003. She financed the purchase with a mortgage loan from EMC. This appeal arises from EMC's attempt to foreclose on the property after Ms. Schulze failed to make payments. In its motion to dismiss, EMC represents to the Court that the foreclosure proceeded and the property has been sold. The motion includes an authenticated copy of the Substitute Trustee's Deed executed at the foreclosure sale.

When the judgment of this Court can have no effect on an existing controversy, a case becomes moot and should be dismissed. *See F.D.I.C. v. Nueces County*, 886 S.W.2d 766, 767 (Tex. 1994); *Restrepo v. First Nat'l Bank of Dona Ana County, New Mexico*, 888 S.W.2d 606, 607 (Tex.App.--El Paso 1994, no writ). Because the property which was the subject of this

appeal has been sold, any judgment issued by the Court would have no effect as there is no longer a controversy to resolve. *See F.D.I.C.*, 886 S.W.2d at 767. Thus, Appellant's case has become moot. Accordingly, we grant Appellee's motion and dismiss the appeal.

May 22, 2008

DAVID WELLINGTON CHEW, Chief Justice

Before Chew, C.J., McClure, and Carr, JJ.