

**DISMISS and Opinion Filed August 10, 2023**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-23-00643-CV**

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**CLAUDIA JOHNSTON AND BRUCE LAMBERT, Appellants  
V.  
GA INVESTMENTS, LLC, Appellee**

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**On Appeal from the County Court at Law No. 2  
Dallas County, Texas  
Trial Court Cause No. CC-23-00798-B**

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**MEMORANDUM OPINION**

Before Chief Justice Burns, Justice Pedersen, III, and Justice Goldstein  
Opinion by Chief Justice Burns

This is a forcible detainer appeal with a single issue: whether the trial court properly determined appellee had a superior right of possession to certain property occupied by appellants. *See Marshall v. Housing Auth. of City of San Antonio*, 198 S.W.3d 782, 785, 787 (Tex. 2006). Stating appellants are no longer in possession of the property, appellee has filed a motion to dismiss the appeal as moot. *See Olley v. HVM, L.L.C.*, 449 S.W.3d 573, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (appellate courts lack jurisdiction over moot controversies). Attached to the motion is a copy of the executed writ of possession showing appellants' possessions

have been removed from the property. Although appellee's motion has been on file for more than ten days, appellants have not filed a response.

Unless a tenant has "a potentially meritorious claim of right to current, actual possession of the property," the issue of possession in a forcible detainer action becomes moot when the tenant vacates the property. *See Marshall*, 198 S.W.3d at 787. When the issue becomes moot on appeal and no other issues exist, the appellate court must vacate the underlying judgment and dismiss the entire underlying case. *See id.* at 785, 790.

With nothing before us showing appellants have a potentially meritorious claim of right to current possession of the property, we grant the motion to the extent we vacate the trial court's final judgment and dismiss the case. *See Marshall*, 198 S.W.3d at 785, 790.

/Robert D. Burns, III/  
ROBERT D. BURNS, III  
CHIEF JUSTICE

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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

CLAUDIA JOHNSTON AND  
BRUCE LAMBERT, Appellants

No. 05-23-00643-CV      V.

GA INVESTMENTS, LLC, Appellee

On Appeal from the County Court at  
Law No. 2, Dallas County, Texas  
Trial Court Cause No. CC-23-00798-  
B.

Opinion delivered by Chief Justice  
Burns, Justices Pedersen, III and  
Goldstein participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** that appellee GA Investments, LLC recover its costs, if any, of this appeal from appellants Claudia Johnston and Bruce Lambert.

Judgment entered August 10, 2023