



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-13-00120-CV

Bren **GARZA** and Lucelva Davis,
Appellants

v.

Beth **ROSENBERG** f/k/a Beth Brenner,
Appellee

From the 438th Judicial District Court, Bexar County, Texas
Trial Court No. 2011-CI-02371
Honorable Janet P. Littlejohn, Judge Presiding

PER CURIAM

Sitting: Karen Angelini, Justice
Santee Bryan Marion, Justice
Marialyn Barnard, Justice

Delivered and Filed: April 17, 2013

DISMISSED FOR LACK OF JURISDICTION

The trial court signed a final judgment on October 12, 2012. Appellants filed a timely motion for new trial on November 9, 2012. Therefore, the notice of appeal was due to be filed on January 10, 2013. A motion for extension of time to file the notice of appeal was due on January 25, 2013. *See* TEX. R. APP. P. 26.3. Appellants, however, did not file their notice of appeal until February 1, 2013. Appellants did not file a motion for extension of time.

A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by Rule 26.1 but within the fifteen-day

grace period provided by Rule 26.3 for filing a motion for extension of time. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex.1997) (construing the predecessor to Rule 26). But “once the period for granting a motion for extension of time under Rule [26.3] has passed, a party can no longer invoke the appellate court’s jurisdiction.” *Id.*

We, therefore, ordered appellants to show cause in writing why this appeal should not be dismissed for lack of jurisdiction. No response was filed. We therefore dismiss this appeal for lack of jurisdiction.

PER CURIAM