



NUMBER 13-09-00327-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

MARIA KANZERANI F/K/A MARIA CHONG,

Appellant,

v.

KYONG TAEK CHONG,

Appellee.

**On appeal from the 92nd District Court
of Hidalgo County, Texas.**

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Garza
Memorandum Opinion Per Curiam**

Appellant perfected an appeal from a judgment entered by the 92nd District Court of Hidalgo County, Texas, in cause number C-134-93-A. The parties have filed a joint motion to withdraw the clerk's record from this cause number, 13-09-00327-CV, and re-file it in cause number 13-09-00448-CV.

On June 10, 2009, appellant filed a notice of appeal of a final judgment signed on March 13, 2009, which was assigned cause number 13-09-00327-CV. On July 30, 2009,

this Court received appellant's notice of appeal of an amended final judgment signed on May 26, 2009, pertaining to the same matter as the March 13, 2009 final judgment and assigned it cause number 13-09-00448-CV. The amended final judgment vacated the March 13, 2009 final judgment.

On August 24, 2009, this Court informed the parties that the record before the Court in cause number 13-09-00327-CV contained no appealable judgment of March 13, 2009 and that if the defect was not cured, the case would be dismissed for want of jurisdiction. See TEX. R. APP. P. 42.3(a), (c). In response, the parties have filed a joint motion requesting that the Court withdraw the clerk's record from cause number 13-09-00327-CV and re-file it in cause number 13-09-00448-CV, indicating they do not oppose dismissal of cause number 13-09-00327-CV.

The Court, having considered the documents on file and the parties' joint motion, is of the opinion that the motion should be granted. Accordingly, the motion to withdraw the clerk's record from cause number 13-09-00327-CV and re-file it in cause number 13-09-00448-CV is hereby GRANTED and the appeal in cause number 13-09-00327 is hereby DISMISSED. See TEX. R. APP. P. 42.1(a). Costs will be taxed against appellant. See TEX. R. APP. P. 42.1(d) ("Absent agreement of the parties, the court will tax costs against the appellant.").

PER CURIAM

Delivered and filed the
7th day of January, 2010.