



**NUMBER 13-09-00661-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**IN RE SOUTHERN NURSERIES, INC. AND KATHY GARFIELD**

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**On Petition for Writ of Mandamus**

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**MEMORANDUM OPINION**

**Before Justices Rodriguez, Garza, and Benavides  
Per Curiam Memorandum Opinion<sup>1</sup>**

Relators, Southern Nurseries, Inc. and Kathy Garfield, filed a petition for writ of mandamus in the above cause on December 10, 2009, through which they sought relief from the trial court's denial of their motion to abate the trial of this matter until February 1, 2010. Relators further sought emergency relief in the form of a stay of the trial court's order. On December 10, 2009, this Court granted relators' motion for emergency stay and requested that real parties in interest file a response to the petition for writ of mandamus.

On December 14, 2009, relators filed a motion to dismiss their petition for writ of

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<sup>1</sup> See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

mandamus because the trial court granted a continuance of the trial until February 1, 2010. Because the trial court's action disposed of all issues forming the basis of this proceeding, there is no longer a controversy and relators' petition for writ of mandamus is moot. See *In re Kellogg Brown & Root, Inc.*, 166 S.W.3d 732, 737 (Tex. 2005) (“A case becomes moot if a controversy ceases to exist between the parties at any stage of the legal proceedings . . . .”); *State Bar of Texas v. Gomez*, 891 S.W.2d 243, 245 (Tex. 1994) (stating that, for a controversy to be justiciable, there must be a real controversy between the parties that will be actually resolved by the judicial relief sought).

Accordingly, we grant relators' motion, lift the stay previously imposed by this Court and dismiss relators' petition for writ of mandamus as moot. See TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the 17th  
day of December, 2009.