



NUMBER 13-10-00155-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

**TEXAS GULF TRAWLING, INC.,
MARINE RAILWAY, INC., ZIMCO MARINE, INC.,
TEXGULMARCO COMPANY, INC., WALTER
ZIMMERMAN AND HARLEY DALE LONDRIE,** **Appellants,**

v.

**RCA TRAWLERS & SUPPLY, INC.
AND PATRICIO AHUMADA, JR.,** **Appellees.**

**On appeal from the 103rd District Court
of Cameron County, Texas.**

MEMORANDUM OPINION

**Before Justices Yañez, Garza, and Benavides
Memorandum Opinion Per Curiam**

Appellants, Texas Gulf Trawling, Inc., Marine Railway, Inc., Zimco Marine, Inc.,
Texgulmarco Company, Inc., Walter Zimmerman, and Harley Dale, argue by four

issues that the trial court erred in granting a bill of review filed by appellees, RCA Trawlers & Supply, Inc. and Patricio Ahumada Jr., in trial court cause number 2006-07-3152-D. Appellees filed their bill of review seeking to set aside a judgment in trial court cause number 94-09-4693-D dismissing that cause for want of prosecution. After a jury trial on the merits of the bill of review, the jury found that neither appellees nor their counsel had received a “Drop Docket Notice” or “Order of Dismissal For Want of Prosecution” in the underlying case. The trial court rendered judgment on the jury’s verdict and entered an order on January 11, 2010, granting the bill of review and vacating the “Order of Dismissal For Want of Prosecution” previously issued in trial court cause number 94-09-4693-D. This appeal followed.

On June 30, 2010, appellees filed a motion arguing that we lack jurisdiction over the appeal because the challenged order is interlocutory. Appellees also asked that we impose sanctions upon appellants for filing a frivolous appeal. See TEX. R. APP. P. 45.

We agree that we lack jurisdiction over the appeal. An appeal may be prosecuted only from a final judgment which disposes of all issues and parties in the case. *Tesoro Petroleum v. Smith*, 796 S.W.2d 705 (Tex. 1990). A bill of review which sets aside a prior judgment but does not dispose of all the issues of the case on the merits is interlocutory in nature and is not an appealable final judgment. *Jordan v. Jordan*, 907 S.W.2d 471, 472 (Tex. 1995) (citing *Tesoro*, 796 S.W.2d at 705; *Warren v. Walter*, 414 S.W.2d 423 (Tex. 1967)).

Because appellants have not shown that the merits of the underlying case, trial court cause number 94-09-4693, have been ruled on and the case disposed of, we have no jurisdiction to consider this appeal. *See id.* We therefore grant appellees' motion in part and dismiss the instant appeal for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a). Further, having fully considered appellees' request for sanctions, we deny that request. *See* TEX. R. APP. P. 45.

PER CURIAM

Delivered and filed the
18th day of November, 2010.