NO. 12-13-00249-CV

IN THE COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT

TYLER, TEXAS

SUTTON FRUIT & VEGETABLE COMPANY, DONALD JOHNSON, CHRISTOPHER SUTTON, KENNETH SUTTON AND KEITH SUTTON,	§	*APPEAL FROM THE 392ND*
APPELLANTS	§	*JUDICIAL DISTRICT COURT*
V.		
WILBUR-ELLIS COMPANY,		
APPELLEE	§	*HENDERSON COUNTY, TEXAS*

MEMORANDUM OPINION
PER CURIAM

Appellants have filed an unopposed motion to set aside the trial court's judgment, without regard to the merits, and remand the case to the trial court for rendition of judgment in accordance with the parties' agreement. Appellants state in their motion that their agreement obviates the need to proceed with this appeal.

This court is of the opinion that the motion should be granted. Accordingly, we ***grant*** the motion, ***reverse*** the trial court's judgment, without regard to the merits, and ***remand*** the case to the trial court for rendition of judgment in accordance with the parties' agreement. *See* TEX. R. APP. P. 42.1(a)(2)(B), 43.2(d).

Opinion delivered September 30, 2013.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.

(PUBLISH)

COURT OF APPEALS

TWELFTH COURT OF APPEALS DISTRICT OF TEXAS

JUDGMENT

SEPTEMBER 30, 2013

NO. 12-13-00249-CV

SUTTON FRUIT & VEGETABLE COMPANY, DONALD JOHNSON, CHRISTOPHER SUTTON, KENNETH SUTTON AND KEITH SUTTON,
Appellant
V.
WILBUR-ELLIS COMPANY,
Appellee

Appeal from the 392nd Judicial District Court

of Henderson County, Texas (Tr.Ct.No. 2012B-0228-A)

THIS CAUSE came on to be heard on the unopposed motion to set aside the trial court's judgment, without regard to the merits, and the same being considered, it is hereby ORDERED, ADJUDGED and DECREED by this Court that the motion be **granted**, the trial court's judgment be **reversed**, and the case **remanded** to the trial court for rendition of judgment in accordance with the parties' agreement, and that this decision be certified to the court below for observance.

By *per curiam* opinion.
Panel consisted of Worthen, C.J., Griffith, J., and Hoyle, J.