

DISMISS and Opinion Filed August 27, 2013.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-13-01036-CV

JUAN V. AVILA, Appellant

V.

**BAYVIEW LOAN SERVICING, LLC,
A DELAWARE LIMITED LIABILITY COMPANY, Appellee**

**On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-13-03094-B**

MEMORANDUM OPINION

Before Justices Lang, Myers, and Evans
Opinion by Justice Lang

Before the Court is appellee's motion to dismiss the appeal as moot. Appellant appeals from the trial court's judgment awarding possession of property to appellee. Appellee has informed the Court that it obtained a writ of possession and has been given possession of the property. Appellant did not file a response to the motion to dismiss.

A case becomes moot if, at any stage during the proceedings, a controversy ceases to exist between the parties. *See Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). The purpose of a forcible detainer action is to obtain immediate possession of property. *See Scott v. Hewitt*, 127 Tex. 31, 35, 90 S.W.2d 816, 818-19 (1936). A judgment of possession in a forcible detainer action determines the right to immediate possession and is not intended to be a final

determination of whether the eviction is wrongful. *See Marshall v. Housing Auth. of the City of San Antonio*, 198 S.W.3d 782, 787 (Tex. 2006).

Appellant failed to supersede the judgment. The judgment has been executed on and appellee now has possession of the property. The issue of possession is no longer in controversy. Accordingly, we grant appellee's motion and dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

/Douglas S. Lang/
DOUGLAS S. LANG
JUSTICE

131036F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

JUAN V. AVILA, Appellant

No. 05-13-01036-CV V.

BAYVIEW LOAN SERVICING, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY, Appellee

On Appeal from the County Court at Law
No. 2, Dallas County, Texas.

Trial Court Cause No. CC-13-03094-B.

Opinion delivered by Justice Lang. Justices
Myers and Evans, participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee, BAYVIEW LOAN SERVICING, LLC, A DELAWARE LIMITED LIABILITY COMPANY, recover its costs of this appeal from appellant, JUAN V. AVILA.

Judgment entered this 27th day of August, 2013.

/Douglas S. Lang/

DOUGLAS S. LANG

JUSTICE