

DISMISS and Opinion Filed October 28, 2019



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00354-CV

**THE ACCOUNTS RETRIEVABLE SYSTEM, INC. ASSIGNEE OF
CHASE MANHATTAN BANK USA, N.A. SUCCESSOR IN INTEREST TO
BANK ONE DELAWARE, N.A., Appellant**

V.

WEI CHIN LIN AND BANK OF AMERICA, N.A., Appellees

**On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-18-03587-B**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Whitehill, and Justice Nowell
Opinion by Chief Justice Burns

We **REINSTATE** this appeal.

The Court questioned its jurisdiction over this appeal as it appeared the judgment was not final or otherwise subject to an interlocutory appeal. At the Court's request, appellant filed a letter brief addressing our concern.

Generally, appellate courts have jurisdiction only over appeals from final judgments. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). A final judgment is one that disposes of all parties and claims. *See id.*

After the trial court signed an order dissolving a writ of garnishment, both Wei Chin Lin and Bank of America filed motions in the trial court seeking attorney's fees from appellant. By

order signed February 18, 2019, the trial court granted Wei Chin Lin's motion and awarded attorney's fees to counsel for Wei Chin Lin. It appears that Bank of America's motion for attorney's fees from appellant remains pending before the trial court. Although Bank of America and appellant filed an agreed motion for nonsuit, the clerk's record does not contain an order of nonsuit. *See Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex. 1995) (when party moves to nonsuit its claims, appellate timetable runs from signing of judgment or order disposing of those claims or parties).

In its letter brief, appellant asked the Court to abate this appeal "with instructions to the trial court to enter a final order." By order dated August 16, 2019, we abated this appeal and gave appellant thirty days to obtain an order on the agreed motion for nonsuit and to have a supplemental clerk's record filed containing any such order. As of today's date, a supplemental clerk's record has not been filed and the Court has had no further correspondence from appellant.

The record before this Court does not contain a final judgment. Accordingly, we dismiss this appeal for want of jurisdiction. TEX. R. APP. P. 42.3(a).

/Robert D. Burns, III/
ROBERT D. BURNS, III
CHIEF JUSTICE

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

JUDGMENT

THE ACCOUNTS RETRIEVABLE
SYSTEM, INC. ASSIGNEE OF CHASE
MANHATTAN BANK USA, N.A.
SUCCESSOR IN INTEREST TO BANK
ONE DELAWARE, N.A., Appellant

On Appeal from the County Court at Law
No. 2, Dallas County, Texas
Trial Court Cause No. CC-18-03587-B.
Opinion delivered by Chief Justice Burns.
Justices Whitehill and Nowell participating.

No. 05-19-00354-CV V.

WEI CHIN LIN AND BANK OF
AMERICA, N.A., Appellees

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

It is **ORDERED** that appellees WEI CHIN LIN AND BANK OF AMERICA, N.A. recover their costs of this appeal from appellant THE ACCOUNTS RETRIEVABLE SYSTEM, INC. ASSIGNEE OF CHASE MANHATTAN BANK USA, N.A. SUCCESSOR IN INTEREST TO BANK ONE DELAWARE, N.A.

Judgment entered October 28, 2019