

Dismissed and Opinion Filed October 23, 2019.



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00803-CV

MASTER CLEANING SUPPLY, INC., Appellant
V.
OH SUN KWON, Appellee

On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-16-05120-B

MEMORANDUM OPINION

Before Justices Pedersen, III, Reichel, and Carlyle
Opinion by Justice Pedersen, III

The underlying suit in this appeal was filed against appellee, Oh Sun Kwon, by La O, Inc., a non-party to the appeal. Kwon then filed third-party claims against appellant, Master Cleaning Supply, Inc. (“MCS”). MCS failed to answer, and the trial court signed an interlocutory default judgment against MCS on Kwon’s third-party claims. Almost two years later, the trial court signed a default judgment against Kwon on La O’s claims. That same day, despite the earlier interlocutory default judgment against MCS and without referencing that judgment, the trial court also signed an order dismissing Kwon’s third-party claims against MCS for want of prosecution. By this appeal, MSC challenges the interlocutory default judgment against it.

Because it appeared the interlocutory default judgment against MCS was superseded by the subsequent order dismissing the third-party claims, we questioned whether the appeal was

moot and we had jurisdiction over the appeal. *See Heckman v. Williamson Cty.*, 369 S.W.3d 137, 162 (Tex. 2012) (court lacks jurisdiction over case that has become moot because issues presented have ceased to exist); *Dickson & Assoc. v. Brady*, 530 S.W.2d 886, 887-88 (Tex. App.—Houston [1st Dist.] 1975, no writ) (subsequent order dismissing entire case for want of prosecution necessarily vacated prior interlocutory summary judgment even though trial court did not refer to prior judgment in dismissal order). At our request, MCS filed a letter brief addressing our concern, but nothing in the letter brief demonstrates our jurisdiction.

The order dismissing Kwon’s third-party claims vacated the prior interlocutory default judgment against MCS. *See Brady*, 530 S.W.2d at 887-88. Accordingly, the appeal is moot and we dismiss it for want of jurisdiction. *See TEX. R. APP. P. 42.3(a)*.

/Bill Pedersen, III/
BILL PEDERSEN. III
JUSTICE



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

JUDGMENT

MASTER CLEANING SUPPLY, INC.,
Appellant

No. 05-19-00803-CV V.

OH SUN KWON, Appellee

On Appeal from the County Court at Law
No. 2, Dallas County, Texas
Trial Court Cause No. CC-16-05120-B.
Opinion delivered by Justice Pedersen, III,
Justices Reichel and Carlyle participating.

In accordance with this Court's opinion of this date, we **DISMISS** the appeal.

We **ORDER** that appellee Oh Sun Kwon recover his costs, if any, of this appeal from appellant Master Cleaning Supply, Inc.

Judgment entered this 23rd day of October 2019.