

Dismiss and Opinion Filed December 13, 2021



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-21-00887-CV

NERISA FOSTER, Appellant

V.

MELODY 6050 #265 LAND TRUST, Appellee

On Appeal from the County Court at Law No. 2
Dallas County, Texas
Trial Court Cause No. CC-21-02228-B

MEMORANDUM OPINION

Before Justices Reichel, Nowell, and Carlyle
Opinion by Justice Nowell

This is an appeal from the trial court’s final judgment of possession in a forcible-detainer suit. The judgment was not superseded, and a writ of possession was served on appellant. Because it appeared appellant was no longer in possession of the property, and a forcible detainer action generally becomes moot when the tenant is no longer in possession of the premises, we questioned our jurisdiction over the appeal. *See Marshall v. Housing Auth. of City of San Antonio*, 198 S.W.3d 782, 785, 787 (Tex. 2006) (possession of premises is only issue in forcible detainer action; issue of possession becomes moot when tenant vacates property unless tenant has “potentially meritorious claim of right to current, actual possession”); *Olley v.*

HVM, L.L.C., 449 S.W.3d 573, 575 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (appellate courts lack jurisdiction over moot controversies).

On November 12, 2021, we directed appellant to file a letter brief showing cause why the case should not be dismissed as moot. Although we cautioned that failure to comply by November 22, 2021 could result in dismissal of the case, appellant has not filed a letter brief or otherwise communicated with the Court.

When a case becomes moot on appeal, the appellate court must set aside the trial court's judgment and dismiss the case. *See Marshall*, 198 S.W.3d at 785, 790. Accordingly, on the record before us, we vacate the trial court's final judgment of possession and dismiss the case as moot. *See id.* at 790.

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/Erin A. Nowell//
ERIN A. NOWELL
JUSTICE



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

JUDGMENT

NERISA FOSTER, Appellant

No. 05-21-00887-CV V.

MELODY 6050 #265 LAND
TRUST, Appellee

On Appeal from the County Court at
Law No. 2, Dallas County, Texas
Trial Court Cause No. CC-21-02228-
B.

Opinion delivered by Justice Nowell,
Justices Reichek and Carlyle
participating.

In accordance with this Court's opinion of this date, we **VACATE** the trial court's July 16, 2021 final judgment and **DISMISS** the case.

Judgment entered this day of December 13, 2021.