

DISMISS and Opinion Filed August 29, 2022



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

No. 05-22-00546-CV

**MIA WAFER, Appellant
V.
HILLTOP RESIDENTIAL, Appellee**

**On Appeal from the County Court at Law No. 4
Dallas County, Texas
Trial Court Cause No. CC-22-00777-D**

MEMORANDUM OPINION

Before Chief Justice Burns, Justice Molberg, and Justice Smith
Opinion by Chief Justice Burns

After reviewing the clerk’s record, the Court questioned its jurisdiction over this appeal because the judgment is not definite in its award of appellate attorney’s fees. We directed appellant to file a letter brief addressing the Court’s concern with an opportunity for appellee to respond.

Generally, an appeal may be taken only from a judgment that is final and definite. *See Hinde v. Hinde*, 701 S.W.2d 637, 639 (Tex. 1985) (per curiam). A judgment is final if it disposes of all parties and issues; it is definite if it defines the parties’ rights or “provide[s] a definite means of ascertaining [the parties’] rights” such that “ministerial officers can carry the judgment to execution without

ascertainment of facts” not stated in the judgment. *Id.* (quoting *Steed v. State*, 183 S.W.2d 458, 460 (Tex. 1944)).

The trial court’s judgment in the underlying forcible detainer action awards to appellee possession of the property, attorney’s fees through trial in the amount of \$1,000 and “in the event of an unsuccessful appeal by [appellant], any reasonable and necessary amounts.” The award of appellate attorney’s fees is not definite such that ministerial officers could carry the judgment to execution without ascertainment of facts not stated in the judgment. *See id.* In her letter brief, appellant addresses the timeliness of the appeal which the Court does not dispute. She fails to address the indefinite award of appellate attorney’s fees.

Because the judgment does not set the amount of appellate attorney’s fees awarded in the event of an unsuccessful appeal, we dismiss the appeal for want of jurisdiction. *See* TEX. R. APP. P. 43.2(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

MIA WAFER, Appellant

No. 05-22-00546-CV V.

HILLTOP RESIDENTIAL, Appellee

On Appeal from the County Court at
Law No. 4, Dallas County, Texas
Trial Court Cause No. CC-22-00777-
D.

Opinion delivered by Chief Justice
Burns. Justices Molberg and Smith
participating.

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

Judgment entered August 29, 2022