

Opinion issued October 25, 2016



In The
Court of Appeals
For The
First District of Texas

NO. 01-16-00604-CV

CHRISTINE E. REULE, Appellant
V.

**SHERWOOD VALLEY 1 COUNSEL OF HOMEOWNERS, INC., GEORGE
HENRY RAMSEY, III, AND TERRY A. FRAZEE, Appellees**

**On Appeal from the 333rd District Court
Harris County, Texas
Trial Court Case No. 2016-37895**

NO. 01-16-00690-CV

IN RE CHRISTINE E. REULE, Relator

Original Proceeding on Petition for Writ of Injunction

MEMORANDUM OPINION

Appellant, Christine E. Reule, timely filed a notice of appeal on July 30, 2016, from the trial court's interlocutory order, signed on July 13, 2016. *See* TEX. R. APP. P. 26.1(b). The trial court's order denied Reule's request for a temporary injunction that would have prohibited the non-judicial foreclosure of her homestead. Reule's appeal was perfected and assigned to appellate cause number 01–16–00604–CV.

On September 2, 2016, Reule, as relator, filed a combined petition for writ of injunction and a motion for emergency stay in this Court, which was assigned to appellate cause number 01–16–00690–CV. Reule's injunction petition and motion sought to stay foreclosure of her homestead, pending disposition of her interlocutory appeal under 01–16–00604–CV, in the underlying proceeding.¹ We dismiss this appeal and the related writ of injunction for want of jurisdiction.

This Court generally has jurisdiction over appeals from a final judgment unless a statute authorizes an interlocutory appeal. *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 51.012, 51.014(a)(1)–(13) (West Supp. 2016) (listing appealable interlocutory orders); *CMH Homes v. Perez*, 340 S.W.3d 444, 447 (Tex. 2011) (“Unless a statute authorizes an interlocutory appeal, appellate courts generally only have jurisdiction over appeals from final judgments.”). An order denying a

¹ The underlying case is *Christine E. Reule v. Sherwood Valley I Counsel of Homeowners, Inc., et al.*, Cause No. 2016-37895, pending in the 333rd District Court of Harris County, Texas, the Honorable Joseph J. Tad” Halbach, Jr., presiding.

temporary injunction is an appealable, interlocutory order. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(4) (stating that granting or refusing temporary injunction is reviewable on interlocutory appeal).

“An appeal from an order on a temporary injunction becomes moot when the act sought to be enjoined occurs.” *TD Reo Fund, LLC v. City of Baytown, Inland Environments, Ltd.*, No. 14–16–00128–CV, 2016 WL 1165799, at *1 (Tex. App.—Houston [14th Dist.] Mar. 24, 2016, no pet.) (per curiam) (mem. op.) (citing *Gen. Land Office v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 570–71 (Tex. 1990)). If real property that is the subject of the appeal is sold by foreclosure after the appellant perfects its appeal, the appeal must be dismissed as moot. *See Pirate’s Lake, Ltd. v. Vestin Realty Mortg. I, Inc.*, No. 14–08–00085–CV, 2008 WL 3833618, at *2–3 (Tex. App.—Houston [14th Dist.] Aug. 12, 2008, no pet.) (mem. op.) (dismissing appeal for want of jurisdiction because after real property that was sole subject of appeal was sold by foreclosure after appellant perfected its appeal, appeal became moot); *see also TD Reo Fund, LLC*, 2016 WL 1165799, at *1 (dismissing appeal for want of jurisdiction as moot after appellee demolished real property in question) (citing *Nat’l Collegiate Athletic Ass’n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999)).

On September 2, 2016, the appellees and real parties in interest, Sherwood Valley 1 Counsel of Homeowners, Inc., George Henry Ramsey, III, and Terry A. Frazee (“Sherwood Valley”), filed a response in opposition to the motion. On

September 6, 2016, Sherwood Valley filed a letter in this Court claiming that Reule's motion and petition were moot because the foreclosure occurred that afternoon. On September 15, 2016, this Court ordered Sherwood Valley to file affidavits or other certified evidence showing that the foreclosure had occurred. This Court's Order also notified Reule that her injunction petition and her interlocutory appeal may be dismissed for want of jurisdiction unless she timely responded and showed how this Court still had jurisdiction. *See* TEX. R. APP. P. 42.3(a), (c); *see also Tex. A&M Univ.–Kingsville v. Yarbrough*, 347 S.W.3d 289, 290–91 (Tex. 2011).

Although Sherwood Valley timely filed affidavits in this Court on September 26, 2016, confirming that the foreclosure had occurred on September 6, 2016, Reule failed to respond timely to this Court's Order. Thus, we must dismiss this appeal for want of jurisdiction because it became moot after the foreclosure of Reule's homestead, the sole subject of this appeal, occurred after she perfected her appeal. *See Jones*, 1 S.W.3d at 86; *OXY U.S.A.*, 789 S.W.2d at 570–71; *Pirate's Lake*, 2008 WL 3833618, at *3.

Similarly, because Reule's writ of injunction and motion are predicated solely to preserve this Court's jurisdiction over her interlocutory appeal, which is being dismissed as moot, we likewise must dismiss this writ of injunction for want of jurisdiction as moot. *See In re City of Rosenberg*, No. 14–15–00824–CV, 2015 WL 6403125, at *1 (Tex. App.—Houston [14th Dist.] Oct. 22, 2015, orig. proceeding)

(per curiam) (mem. op.) (dismissing writ of prohibition as moot because writ was predicated on interlocutory appeal that had been dismissed).

Conclusion

Accordingly, we dismiss Reule's appeal and her writ of injunction for want of jurisdiction. *See* TEX. R. APP. P. 42.3(a); 43.2(f). We dismiss Reule's emergency motion and any other pending motions as moot.

PER CURIAM

Panel consists of Justices Jennings, Keyes, and Brown.