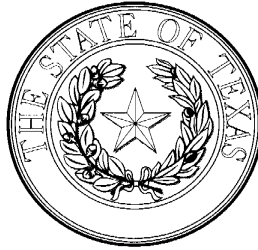


Opinion issued September 2, 2021



In The  
**Court of Appeals**  
For The  
**First District of Texas**

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NO. 01-19-00670-CV

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ANNA KELLY, Appellant

V.

INDEPENDENCE HEIGHTS APARTMENTS, Appellee

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On Appeal from the County Civil Court at Law No. 4  
Harris County, Texas  
Trial Court Case No. 1127306

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**MEMORANDUM OPINION**

Anna Kelly appealed from a judgment in a forcible detainer suit. A justice of the peace court found that Independence Heights Apartments was entitled to possession of the apartment that Anna had leased. Anna appealed to the county court at law, which held a bench trial and found that the petition was proven and

awarded a writ of possession to Independence Heights Apartments. Anna appealed the judgment of the county court at law.

Appellate courts lack jurisdiction to decide moot controversies and render advisory opinions. *See Nat'l Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999); *Lodhi v. Haque*, No. 01-19-00349-CV, 2020 WL 5778811, at \*2 (Tex. App.—Houston [1st Dist.] Sept. 29, 2020, no pet.) (mem. op.); *Briones v. Brazos Bend Villa Apartments*, 438 S.W.3d 808, 812 (Tex. App.—Houston [14th Dist.] 2014, no pet.). A case becomes moot if a justiciable controversy ceases to exist at any stage of the legal proceedings. *Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001).

“The only issue in a forcible detainer action is the right to actual possession of the premises.” *Marshall v. Hous. Auth. of City of San Antonio*, 198 S.W.3d 782, 785 (Tex. 2006); *see* TEX. PROP. CODE §§ 24.001–.011; TEX. R. CIV. P. 510. “[A]n appeal from a forcible detainer judgment becomes moot if the defendant is no longer in possession of the property, unless she holds and asserts ‘a potentially meritorious claim of right to current, actual possession.’” *Briones*, 438 S.W.3d at 812 (quoting *Marshall*, 198 S.W.3d at 787).

In her brief, Anna states: “Appellant has found a suitable and more desirable dwelling and moved from Independence Heights Apartments on November 30, 2019.” Anna’s lease provided for a term from August 22, 2018 until August 31,

2019, with an automatic month-to-month renewal “unless either party gives at least 30 days’ written notice of termination or intent to move out.” After trying to resolve alleged lease violations with Anna, Independence Heights Apartments notified her on October 5, 2018 that it was terminating her lease and gave her more than 30 days—until November 11, 2018—to vacate the property.

Anna is no longer in possession of the property, and, because her lease has expired, she has no meritorious claim of right to current, actual possession. *See Marshall*, 198 S.W.3d at 787 (holding that appellant had no meritorious claim of right to current, actual possession because she had given up possession and her lease had expired). Thus, we conclude that the issue of possession is moot, and the case is moot. *See id.*

## Conclusion

We tax costs to the party by whom incurred, vacate the judgment of the county court at law including any orders requiring the appellant to provide appellate security, and dismiss the case as moot. *See id.* (vacating trial court judgment and requiring parties to pay their own costs). All pending motions are dismissed as moot.

Peter Kelly  
Justice

Panel consists of Justices Kelly, Guerra, and Farris.