

Dismissed and Memorandum Opinion filed November 9, 2017.



In The

Fourteenth Court of Appeals

NO. 14-17-00683-CV

**DARLA RUTH HAIGH, J.C. HAIGH AND/OR ALL OCCUPANTS OF 5407
RAINTREE DRIVE, MISSOURI CITY TEXAS 77459-6215, Appellants**

V.

**CITIBANK N.A., AS TRUSTEE, IN TRUST FOR REGISTERED
HOLDERS OF WAMU ASSET-BACKED CERTIFICATES WAMU SERIES
2007-HE2 TRUST, ITS SUCCESSORS AND/OR ASSIGNS, Appellee**

**On Appeal from County Court at Law No. 5
Fort Bend County, Texas
Trial Court Cause No. 17-CCV-059787**

M E M O R A N D U M O P I N I O N

This is an appeal from a judgment signed July 13, 2017.

Late notice of appeal. The notice of appeal was due August 14, 2017. *See* Tex. R. App. P. 26.1. Appellants, however, filed their notice of appeal on August 17, 2017, a date within 15 days of the due date for the notice of appeal.

A motion for extension of time is necessarily implied when the perfecting instrument is filed within 15 days of its due date. *Verburgt v. Dorner*, 959 S.W.2d

615, 617 (Tex. 1997). Appellants did not file a motion to extend time to file the notice of appeal. While an extension may be implied, appellants are still obligated to come forward with a reasonable explanation to support the late filing. *See Miller v. Greenpark Surgery Ctr. Assocs., Ltd.*, 974 S.W.2d 805, 808 (Tex. App.—Houston [14th Dist.] 1998, no pet.).

A court of appeals lacks jurisdiction to hear an appeal that was not timely perfected. When the court lacks jurisdiction, it must dismiss the appeal. *See Baker v. Baker*, 469 S.W.3d 269, 272 (Tex. App.—Houston [14th Dist.] 2015, no pet.).

On September 26, 2017, we ordered appellants to file, by October 6, 2017, a proper motion to extend time to file the notice of appeal. *See* Tex. R. App. P. 26.3; 10.5(b). We stated that if appellants did not comply with this order, we would dismiss the appeal. *See* Tex. R. App. P. 42.3(a). Appellants have not filed a response.

Unpaid filing fee. Further, our records show appellants have not paid the appellate filing fee. *See* Tex. R. App. P. 5 (requiring payment of fees in civil cases unless party is excused by statute or by appellate rules from paying costs); Tex. Gov't Code Ann. § 51.207 (West 2013).

On October 10, 2017, we ordered appellants to pay the filing fee in the amount of \$205 to this court by October 20, 2017. *See* Tex. R. App. P. 5. We cautioned that if appellants failed to comply with the order, the appeal would be dismissed. *See* Tex. R. App. P. 42.3(c) (allowing involuntary dismissal of case because appellant failed to comply with court order or notice from clerk requiring response or other action within specified time). The fee has not been paid.

Accordingly, the appeal is DISMISSED.

PER CURIAM

Panel consists of Justices Boyce, Jamison, and Brown.