

Dismissed and Memorandum Opinion filed July 20, 2021.



In The

Fourteenth Court of Appeals

NO. 14-20-00130-CV

HOUSTON SHIP CHANNEL SECURITY DISTRICT, Appellant

V.

FREDERICK TRUCKING, LLC, Appellee

**On Appeal from the 189th District Court
Harris County, Texas
Trial Court Cause No. 2019-34536**

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

This is an attempted appeal from two orders signed by the trial court in a bill-of-review proceeding on November 11, 2019, in Trial Court Cause No. 2019-34536.

The record shows that in the order granting appellee Frederick Trucking, LLC's motion for summary judgment, the trial court declared void the judgment rendered on August 11, 2015, in *Houston Ship Channel Security District v. Frederick Trucking, LLC*, Trial Court Cause No. 2014-68950; however, the trial court in Trial Court Cause No. 2019-34536 did not go on to dispose of the bill-of-

review proceeding on the merits. To the contrary, the trial court ordered that Houston Ship Channel Security District “shall revert to its original status as Plaintiff” and that Frederick Trucking LLC “shall revert to its original status as Defendant.” Thus, the trial court’s order is interlocutory and is not appealable. *See Jordan v. Jordan*, 907 S.W.2d 471, 472 (Tex. 1995) (per curiam) (“A bill of review which sets aside a prior judgment but does not dispose of the case on the merits is interlocutory and not appealable.”); *Tesoro Petroleum v. Smith*, 796 S.W.2d 705, 705 (Tex. 1990) (per curiam) (same); *Warren v. Walter*, 414 S.W.2d 423, 423 (Tex. 1967) (per curiam) (same); *see also Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 192–93 (Tex. 2001) (absent a conventional trial, “a judgment . . . is final for purposes of appeal if and only if either it actually disposes of all claims and parties then before the court, regardless of its language, or it states with unmistakable clarity that it is a final judgment as to all claims and all parties”).

The order denying appellant Houston Ship Channel Security District’s summary-judgment motion on the same day, in the same bill-of-review proceeding, is likewise interlocutory. *See Cincinnati Life Ins. Co. v. Cates*, 927 S.W.2d 623, 625 (Tex. 1996) (“The general rule is that a denial of a summary judgment is not reviewable on appeal . . . because the denial of a summary judgment is not a final judgment.”). Although an exception may apply if adversaries file cross-motions for final summary judgment and the trial court grants one and denies the other, *see Frankoff v. Norman*, 448 S.W.3d 75, 87 (Tex. App.—Houston [14th Dist.] 2014, no pet.), the trial court did not grant a final summary judgment in this case.

Because the challenged rulings are interlocutory orders from which no interlocutory appeal is authorized, we notified the parties on June 30, 2021, that we would dismiss the appeal for want of jurisdiction unless a response was filed on or before July 12, 2021, demonstrating grounds for continuing the appeal. *See TEX. R.*

APP. P. 42.3(a). No response having been received, we dismiss the appeal for want of jurisdiction. *See Diogu v. McCloud*, Nos. 14-16-00324-CV and 14-16-00330-CV, 2017 WL 3194168, at *2 (Tex. App.—Houston [14th Dist.] July 27, 2017, no pet.) (mem. op.).

/s/ Tracy Christopher
Chief Justice

Panel consists of Chief Justice Christopher and Justices Hassan and Poissant.