



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-15-00184-CV

**MARIA DOLORES MONTEMAYOR GARCIA AS REPRESENTATIVE FOR M.R.
MONTEMAYOR ESTATE, APPELLANT**

V.

**EQUITY TRUST COMPANY F/B/O EDMUND SZOL NO. 057685, MARTIN
RODRIGUEZ MORENO, AND MARIA DELOURDES PONCE RANGEL, APPELLEE**

**On Appeal from the 99th District Court
Lubbock County, Texas
Trial Court No. 2013-508,089, Honorable William C. Sowder, Presiding**

February 23, 2016

MEMORANDUM OPINION

Before QUINN, C.J., and CAMPBELL and HANCOCK, JJ.

Pending before the court is an appeal by Maria Dolores Montemayor Garcia as Representative for M.R. Montemayor Estate (appellant) of an Order Granting Defendant's Motion for Summary Judgment. We dismiss for want of jurisdiction.

The appellate record before us indicated that one or more of the appellees filed counterclaims to the original claims of appellant. In granting the appellees' motion for summary judgment and, thereby, dismissing appellant's claims, the trial court did not

address the counterclaims. Furthermore, nothing of record indicates that the trial court finally disposed of them in any manner. Questioning whether this court had jurisdiction over the appeal, we directed the litigants to address the matter by February 18, 2016. Appellant purported to respond by filing a stipulation of facts that said nothing of jurisdiction. The appellees responded by acknowledging that their counterclaims have yet to be addressed by the trial court, even though they are attempting to schedule a hearing on them. They also represented that they moved to sever but have yet to succeed in severing those claims from the underlying cause. A copy of the alleged motion did not accompany the response. Nor did the appellees inform us of a date by which the motion may be entertained below or the date on which the alleged motion was filed.

When there has not been a conventional trial on the merits, an order or judgment is not final for purposes of appeal unless it actually disposes of every pending claim and party or unless it clearly and unequivocally states that it finally disposes of all claims and all parties. *Lehman v. Har-Con Corp.*, 39 S.W.3d 191, 205 (Tex. 2001). No such order appears here. Thus, the appeal is dismissed for want of jurisdiction.¹ The parties may file a timely motion for rehearing should a timely final, appealable order be entered.

Per Curiam

¹ Appellees filed a motion to strike the stipulations tendered by appellant. We deny the motion as moot.