



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

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No. 07-16-00033-CV

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**MARTA CARREJO MARTINEZ, APPELLANT**

**V.**

**JIMMY RAY MATTHEWS, JR. AND  
NICHOLAS MATTHEWS, APPELLEES**

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On Appeal from the County Court at Law No. 1  
Tarrant County, Texas  
Trial Court No. 15-004508-1; Honorable Don Pierson, Presiding

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October 31, 2017

**MEMORANDUM OPINION**

Before **QUINN, C.J.**, and **PIRTLE and PARKER, JJ.**

Appellant, Marta Correjo Martinez, appeals the judgment of the Tarrant County Court at Law Number 1, in a forcible entry and detainer action originally filed in justice of the peace court by Appellees, Jimmy Ray Matthews, Jr. and Nicholas Matthews. By four issues, Martinez contends (1) the county court at law did not have jurisdiction to enter the judgment in question, (2) the Matthews' original petition did not meet the

verification requirements of Rule 510.3 of the Texas Rules of Civil Procedure, (3) the Matthews' notice to vacate did not meet the requirements of section 24.005 of the Texas Property Code, and (4) the judgment should be modified to delete the recovery of attorney's fees. We reverse and render judgment that the Matthews' *de novo* county court at law forcible entry and detainer action be dismissed for want of jurisdiction.

#### BACKGROUND

Martinez was convicted of possessing a forged document (a quitclaim deed) in which she attempted to claim an ownership interest in property located at 2109 Fleming Drive, Fort Worth, Texas. Subsequently, on July 2, 2015, the Matthews filed an eviction proceeding against her, in Tarrant County Justice of the Peace Court, Precinct Eight, contending that they were the rightful owners of the property. By their original petition, they never alleged Martinez was in actual possession of the property.<sup>1</sup> Instead, they alleged that she had "plead guilty to forging a deed to the property" in a criminal proceeding and they were, therefore, the true owners of the property and "entitled to immediate possession." On July 23, 2015, the justice of the peace dismissed the Matthews' action, without prejudice, based on a "title dispute" between the parties.

On July 27, 2015, the Matthews appealed the dismissal to the County Court at Law Number 1, and on August 24, 2015, Martinez filed a general denial. On October 14, 2015, after granting a new trial on an earlier default judgment, a non-jury hearing was held. During that hearing, no evidence was offered that Martinez was in actual possession of the property. Instead, the Matthews offered evidence of a title dispute

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<sup>1</sup> Furthermore, by their brief filed in this proceeding, the Matthews now contend (1) "[Martinez] never had possession of the property," (2) "[Martinez] never offered any evidence as to [her] right to possession of the property," and (3) "[the Matthews] have possession of the property now."

created by Martinez's possession of a forged quitclaim deed to the property in question and a district court injunction prohibiting her from occupying the property. Although the live pleading of the Matthews did not request the recovery of attorney's fees, they also offered evidence of attorney's fees incurred in connection with their forcible entry and detainer action. At the conclusion of that hearing, the trial court entered judgment granting the Matthews possession of the premises and recovery of their attorney's fees. Martinez timely requested findings of fact and conclusions of law. Despite the filing of a notice of past due findings, no findings of fact or conclusions of law were ever filed.

#### JURISDICTION

By her first issue, Martinez contends the appeal should have been dismissed because the county court at law lacked subject matter jurisdiction of the Matthews' detainer action. Subject matter jurisdiction is a question of law we review *de novo*. *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226 (Tex. 2004). A justice court in the precinct in which real property is located has exclusive subject matter jurisdiction over a forcible entry and detainer action pertaining to that property. See TEX. PROP. CODE ANN. § 24.004 (West 2014); TEX. GOV'T CODE ANN. § 27.031(a)(2) (West Supp. 2016). A justice court does not have jurisdiction to resolve title disputes and the only issue in an action for forcible entry and detainer is the right to actual and immediate possession of the property in controversy. See TEX. GOV'T CODE ANN. § 27.031(b)(4) (West Supp. 2016).

The appellate jurisdiction of the county court at law is confined to the jurisdictional limits of the justice court, and the county court at law has no jurisdiction

over an appeal unless the justice court had jurisdiction. *Rice v. Pinney*, 51 S.W.3d 705, 708-09 (Tex. App.—Dallas 2001, no pet.); *Crumpton v. Stevens*, 936 S.W.2d 473, 476 (Tex. App.—Fort Worth 1996, no writ). A justice court is expressly denied jurisdiction to determine or adjudicate disputes involving title to land. See TEX. GOV'T CODE ANN. § 27.031(b)(4) (West Supp. 2016). In an action for forcible detainer, “[t]he court must adjudicate the right to actual possession and not title.” TEX. R. CIV. P. 510.3(e). Moreover, an appeal of a judgment in a forcible entry and detainer action becomes moot when the party who is allegedly in wrongful possession of the property in controversy ceases to have actual possession of that property. *Resendez v. FV REO I, L.L.C.*, No. 03-13-00201-CV, 2014 Tex. App. LEXIS 1096, at \*3 (Tex. App.—Austin, Jan. 31, 2014, no pet.) (mem. op.).

#### ANALYSIS

Here, the Matthewses never asserted a dispute between the parties concerning actual possession of the property in controversy. Instead, they merely sought resolution of a cloud created by Martinez’s possession of a forged document regarding the ownership of that property. Where the right to immediate possession necessarily requires resolution of a title dispute or cloud on the title, the justice court has no jurisdiction to enter a judgment. *Rice*, 51 S.W.3d at 709. Because the issue between the parties was not about possession of the property, but was instead about the propriety of Martinez’s alleged claims against the property, the justice court correctly dismissed the Matthewses’ claims for want of subject matter jurisdiction. Accordingly, the county court at law acquired no jurisdiction over their *de novo* appeal.

Furthermore, because Martinez was not in possession of the property in controversy and did not assert a potentially meritorious claim of right to immediate and actual possession, there never was a controversy concerning possession to decide. As a result, even if the justice court dismissed the Matthews' original claim based on the mootness of that claim, their attempted appeal of the justice court's order of dismissal would also be moot.

#### CONCLUSION

Agreeing with Martinez's first issue concerning the county court at law's lack of subject matter jurisdiction, we sustain that issue, pretermite the remaining issues,<sup>2</sup> and render judgment that the Matthews' *de novo* county court at law cause of action for forcible entry and detainer be dismissed for want of jurisdiction.

Patrick A. Pirtle  
Justice

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<sup>2</sup> Because resolution of Martinez's first issue is dispositive of the case on appeal, it is unnecessary for us to consider her remaining issues. TEX. R. APP. P. 47.1.