



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

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No. 07-18-00058-CV

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**JAMIE E. RATLIFF AND TASHA L. RATLIFF, APPELLANTS**

**V.**

**JOHN MCCRUMMEN AND KEITH THOMPSON, APPELLEES**

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On Appeal from the 237th District Court  
Lubbock County, Texas  
Trial Court No. 2017-525,234, Honorable Kelly G. Moore, Presiding

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June 5, 2018

**MEMORANDUM OPINION**

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

Appellants Jamie E. Ratliff and Tasha L. Ratliff appeal the trial court's order dismissing their claims against appellee Keith Thompson. We dismiss the appeal for want of jurisdiction.

Appellants sued appellees John McCrummen and Keith Thompson, alleging violations of section 5.079 of the Property Code. See TEX. PROP. CODE ANN. § 5.079 (West Supp. 2017) (providing statutory damages for seller's failure to transfer title to real property covered by an executory contract). Both appellees answered the suit.

Thompson also filed a motion to dismiss appellants' claims pursuant to Rule 91a of the Texas Rules of Civil Procedure. On February 14, 2018, the trial court signed an order granting the motion, dismissing the claims against Thompson, and awarding costs and attorney fees to Thompson. This appeal followed.

We have jurisdiction to hear an appeal from a final judgment or from an interlocutory order made immediately appealable by statute. See *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001); *Stary v. DeBord*, 967 S.W.2d 352, 352-53 (Tex. 1998) (per curiam). In cases where there is no trial on the merits, a judgment or order is a final judgment for purposes of appeal if it actually disposes of all pending parties and claims or it expressly states that it disposes of all parties and claims. *Lehmann*, 39 S.W.3d at 200-04.

The trial court's order of dismissal did not dispose of all parties and claims as appellants' claims against McCrummen remain pending. Further, the order did not expressly state that it disposed of all parties and claims. Thus, the order is not a final judgment, but rather an interlocutory order. *Lehmann*, 39 S.W.3d at 200. Our review of an interlocutory order must be specifically authorized by statute. See *Stary*, 967 S.W.2d at 352-53. We have found no statutory authority allowing an interlocutory appeal from an order granting a Rule 91a motion to dismiss. See *Buholtz v. Gibbs*, No. 06-16-00068-CV, 2017 Tex. App. LEXIS 5097, at \*2-3 (Tex. App.—Texarkana June 2, 2017, no pet.) (mem. op.). By letter of May 22, 2018, we notified appellants of our concern over the finality of the trial court's order and directed them to show how we have jurisdiction over the appeal. Appellants filed a response, but did not identify any authority allowing an interlocutory appeal.

Accordingly, we dismiss the appeal for want of jurisdiction without prejudice to its refiling after a final judgment is entered. TEX. R. APP. P. 42.3(a).

Per Curiam