



IN THE
TENTH COURT OF APPEALS

No. 10-11-00159-CV

JESUS ALMANZA, D/B/A JESSE
ALMANZA CONCRETE,

Appellant

v.

TRACIE "OEHLER" KELLER D/B/A
OEHLER PROPERTIES AND CHARLES
THOMAS, INDIVIDUALLY AND AS
CHARLES THOMAS HOMES,

Appellees

From the 361st District Court
Brazos County, Texas
Trial Court No. 10-000977-CVD-361

MEMORANDUM OPINION

Jesus Almanza sued Tracie "Oehler" Keller and Charles Thomas. Thomas filed a motion for partial summary judgment which the trial court granted.¹ Almanza appeals the trial court's order.

¹ Almanza's claims against Keller were previously dismissed, but Keller's claims against Almanza have not been dismissed. See *Almanza v. Keller*, No. 10-10-00419-CR, 2011 Tex. App. LEXIS 405 (Tex. App.—Waco Jan. 19, 2011, no pet.)

By letter dated June 14, 2011, the Clerk of this Court notified Almanza that his appeal was subject to dismissal because the order did not appear to be a final, appealable order. Almanza was also warned that the appeal would be dismissed, unless within 21 days from the date of the letter, Almanza filed a response showing grounds for continuing the appeal. Almanza filed a response but it does not show grounds for continuing the appeal. He contends that the trial court granted more relief than requested, and accordingly, the order could be reversed and remanded.

As a general rule, an appeal may be taken only from a final judgment. *See Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001). An order or judgment is final when it disposes of all parties and claims. *Id.* at 205. The order Almanza attempts to appeal does not dispose of Thomas's claims against Almanza. ("This Partial Summary judgment is not final as to any claims of Defendant THOMAS against Plaintiff Jesus Almanza d/b/a/ Jesse Almanza Concrete.")

Accordingly, the trial court's order granting partial summary judgment is not final, and Almanza may not appeal that order at this time.

This appeal is dismissed. TEX. R. APP. P. 42.3(a).

TOM GRAY
Chief Justice

Before Chief Justice Gray,
Justice Davis, and
Justice Scoggins
Appeal dismissed
Opinion delivered and filed July 20, 2011
[CV06]