



**NUMBER 13-17-00048-CV**

**COURT OF APPEALS**

**THIRTEENTH DISTRICT OF TEXAS**

**CORPUS CHRISTI - EDINBURG**

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**PAMALEE CHAMBERS,**

**Appellant,**

**v.**

**HEATHERWILDE VILLAS HOUSING, L.P.  
D/B/A ROSEMONT AT HEATHER BEND,**

**Appellee.**

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**On appeal from the County Court at Law No. 2  
of Travis County, Texas.**

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**MEMORANDUM OPINION**

**Before Chief Justice Valdez and Justices Rodriguez and Hinojosa  
Memorandum Opinion by Justice Rodriguez**

Appellant, Pamalee Chambers, attempted to perfect an appeal from a judgment entered by the County Court at Law No. 2 of Travis County, Texas, in cause number C-1-CV-16-008323.<sup>1</sup> The trial court entered a final judgment in this cause on September

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<sup>1</sup> This case is before the Court on transfer from the Third Court of Appeals in Austin pursuant to a docket equalization order issued by the Supreme Court of Texas. See TEX. GOV'T CODE ANN. § 73.001 (West, Westlaw through 2015 R.S.).

26, 2016. A motion for new trial was filed on November 1, 2016, and notice of appeal was filed on January 3, 2017.

On February 22, 2017, the Clerk of this Court notified appellant that it appeared that the appeal had not been timely perfected. Appellant was advised that, if the defect was not corrected within ten days from the date of receipt of this Court's letter, the appeal would be dismissed. Appellant responded by filing a motion for extension of time to perfect appeal and file a response to this Court's defect letter. This Court granted appellant's motion and ordered that she file a response by May 1, 2017.

On May 15, 2017, appellant filed a response advising the Court that she mailed a response to the Court on April 28, 2017, but it was not received. Appellant explains in a letter dated April 28, 2017 that she timely perfected her appeal. Her response includes a docketing statement and a motion for continuance and discovery which was drafted, but she does not believe it was filed with the trial court. Also included are documents pertaining to a different trial court cause number.

Texas Rule of Appellate Procedure 26.1 provides that an appeal is perfected when notice of appeal is filed within thirty days after the judgment is signed, unless a motion for new trial is timely filed. TEX. R. APP. P. 26.1(a)(1). Where a timely motion for new trial has been filed, notice of appeal shall be filed within ninety days after the judgment is signed. *Id.* A motion for extension of time is necessarily implied when an appellant, acting in good faith, files a notice of appeal beyond the time allowed by rule 26.1, but within the fifteen-day grace period provided by rule 26.3 for filing a motion for extension of time. See *Verburgt v. Dornier*, 959 S.W.2d 615, 617-18, 619 (1997).

The trial court signed the final judgment on September 26, 2016. Appellant's deadline for filing the motion for new trial was October 26, 2016. The motion for new trial was untimely because it was filed on November 1, 2016. Although the motion for new trial was not ruled upon until November 30, 2016, the deadline to file a notice of appeal runs from the date of the final judgment and not from the denial of the motion for new trial. See *Naaman v. Grider*, 126 S.W.3d 73, 74 (Tex. 2003); *Garza v. Hibernia Nat'l Bank*, 227 S.W.3d 233, 233 n.1, 234 (Tex. App.—Houston [1st Dist.] 2007, no pet.). Appellant's notice of appeal was due on October 26, 2016, but was not filed until January 3, 2017. Although appellant filed a motion for extension of time to file the notice of appeal, the notice of appeal was filed beyond the fifteen-day grace period. See TEX. R. APP. P. 26.3; *Verburgt*, 959 S.W.2d at 617–18. Without a timely filed notice of appeal, the Court lacks jurisdiction over this appeal. See TEX. R. APP. P. 25.1.

The Court, having examined and fully considered the documents on file and appellant's motion for extension of time to perfect appeal, is of the opinion that the appeal should be dismissed for want of jurisdiction. Accordingly, appellant's motion for extension of time to perfect appeal is DENIED and the appeal is hereby DISMISSED FOR WANT OF JURISDICTION. See TEX. R. APP. P. 42.3(a).

NELDA V. RODRIGUEZ  
Justice

Delivered and filed the  
1st day of June, 2017.