



NUMBER 13-17-00438-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

MATEO ALVAREZ,

Appellant,

v.

**THE LAREDO NATIONAL BANK,
N/K/A COMPASS BANK,**

Appellee.

**On appeal from the County Court at Law No. 1
of Hidalgo County, Texas.**

MEMORANDUM OPINION

**Before Justices Rodriguez, Benavides, and Longoria
Memorandum Opinion by Justice Longoria**

Appellant, Mateo Alvarez, appeals the trial court's judgment for possession entered against appellant in a forcible detainer suit. On August 30, 2017, appellee filed a motion to dismiss the appeal as moot, stating that appellant was removed from the property and appellee is now in possession of the property.

“The only issue in an action for forcible detainer is the right to actual possession of the premises, and the merits of title shall not be adjudicated.” *Wilhelm v. Fannie Mae*, 349 S.W.3d 766, 768 (Tex. App.—Houston [14th Dist.] 2011, no pet.) (citing Tex. R. Civ. P. 746; *Marshall v. Housing Auth. of City of San Antonio*, 198 S.W.3d 782, 785 (Tex. 2006)). Although the failure to supersede a forcible-detainer judgment does not divest a defendant of his right to appeal when the defendant is no longer in possession of the premises, an appeal from the judgment in that case is moot unless the defendant asserts a “potentially meritorious claim of right to current, actual possession.” *Marshall*, 198 S.W.3d at 787; *Wilhelm*, 349 S.W.3d at 768.

Appellant has not filed a response to the motion to dismiss. Absent any assertion of a potentially meritorious claim of right to current, actual possession, we GRANT appellee’s motion and DISMISS the appeal as moot. See *Marshall*, 198 S.W.3d at 787; *Wilhelm*, 349 S.W.3d at 768.

NORA L. LONGORIA
Justice

Delivered and filed the
5th day of October, 2017.