

Cruz v. Richland Prop. Partners Inc.

Court of Appeals of Texas, Third District, Austin

March 26, 2025, Filed

NO. 03-24-00540-CV

Reporter

2025 Tex. App. LEXIS 1989 *; 2025 LX 225108; 2025 WL 906246

Moses Cruz, Appellant v. Richland Property Partners Inc., Appellee

Prior History: [*1] FROM COUNTY COURT AT LAW NO. 5 OF WILLIAMSON COUNTY. NO. 24-0578-CC5, THE HONORABLE WILL WARD, JUDGE PRESIDING.

Disposition: Vacated and Dismissed.

Core Terms

moot, vacate, evict, foreclosure, no longer live, per curiam, lienholder's, trial court's judgment, motion to dismiss, sell property, proper title, note-and, tenant, cease

Counsel: For Richland Property Partners Inc., Appellee: Mr. Jeremy Sandoval, Mr. Michael T. Howell.

For Cruz, Moses, Appellant: Mr. Moses Cruz.

Judges: Before Chief Justice Byrne, Justices Kelly and Ellis.

Opinion by: Chari L. Kelly

Opinion

MEMORANDUM OPINION

This is an appeal from a statutory county court's judgment in an eviction suit awarding possession of certain residential property to Richland Property Partners Inc. See generally [Tex. Prop. Code §§ 24.001-.011](#). On Richland's motion, we vacate the trial court's judgment and dismiss the suit as moot. See [Alsobrook v. MTGLQ Invs., LP, 656 S.W.3d 394, 395 \(Tex. 2022\)](#) (per curiam).

According both to documents filed in the record and to

Richland, Appellant Moses Cruz and his wife had signed a note with an associated lien in favor of a company for the construction of a swimming pool at the property. Richland alleges that the note-and lienholder foreclosed on the lien for nonpayment and sold the property to Richland. Richland also alleges that it then filed this eviction suit partly because the Cruzes remained on the property without agreeing to any lease with Richland and without paying any month-to-month rent. The statutory county court [*2] after a final bench trial rendered judgment for possession of the property for Richland.

Cruz perfected this appeal from the judgment of possession and has filed his appellant's brief, assigning as error two issues regarding the trial court's "providing possession to Richland." In his first issue, Cruz contends that awarding possession was improper because of problems with the required notices leading up to the lienholder's prior foreclosure. In his second issue, Cruz contends that awarding possession was improper because there were other procedural problems with the foreclosure and alleged fraud in the assignment of the note-and lienholder's interests to Richland.

Richland has now moved to dismiss this appeal because of mootness. It explains, and the record bears out, that after the trial court rendered its judgment of possession, the court gave Richland a writ of possession for the property. Richland adds that it has since executed on the writ, the Cruzes have vacated the property, and Richland has sold the property to another. Cruz, for his part, represents that he and his wife no longer live at the property.

The only issue in an eviction suit such as this is the right to actual possession [*3] of the property. See [Marshall v. Housing Auth. of City of San Antonio, 198 S.W.3d 782, 785 \(Tex. 2006\)](#). When the property at issue in such a suit has been sold and the appellant tenant no longer lives at the property, the eviction suit and associated appeal become moot and must be

dismissed. See *id.* at 787, 790; *Alsobrook v. MTGLQ Invs., LP*, 657 S.W.3d 327, 330 (Tex. App.—Dallas 2021), *aff'd*, 656 S.W.3d 394 (Tex. 2022) (per curiam); *Allen-Mercer v. Roscoe Props., No. 03-15-00674-CV*, 2016 Tex. App. LEXIS 9247, 2016 WL 4506294, at *2 (Tex. App.—Austin Aug. 25, 2016, *no pet.*) (mem. op.). This remains so even when the appellant tenant is challenging the validity of the process leading up to foreclosure and thus proper title to the property. See *Goebel v. Sharon Peters Real Estate, Inc., No. 03-14-00635-CV*, 2015 Tex. App. LEXIS 3745, 2015 WL 1778295, at *2 (Tex. App.—Austin Apr. 16, 2015, *no pet.*) (mem. op.). Cruz's appellate issues challenge the validity of the foreclosure and proper title to the property and thus do not save this eviction suit from mootness. See *id.*

Cruz in his response to Richland's motion to dismiss argues that because this appeal was perfected before the property at issue was sold, the case cannot be moot. But cases may become moot even while an appeal is pending, and the proper result is still dismissal. See *Alsobrook*, 656 S.W.3d at 395 (observing that case may become moot on appeal); *Allen-Mercer*, 2016 Tex. App. LEXIS 9247, 2016 WL 4506294, at *2 ("A case becomes moot if, during any stage of the proceedings, a controversy ceases to exist between the parties."); see also *Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001) ("[A] controversy must exist between the parties at every stage of the legal proceedings, including the appeal. If a controversy ceases to exist—the issues presented [*4] are no longer 'live' or the parties lack a legally cognizable interest in the outcome—the case becomes moot." (internal citation omitted) (quoting *Murphy v. Hunt*, 455 U.S. 478, 481, 102 S. Ct. 1181, 71 L. Ed. 2d 353 (1982) (per curiam))). We thus conclude that this case is moot.

The proper appellate disposition in this circumstance is to vacate the trial court's judgment and dismiss the suit. See *Alsobrook*, 656 S.W.3d at 395. The statutory county court's judgment is vacated, and this suit is dismissed.

Chari L. Kelly, Justice

Before Chief Justice Byrne, Justices Kelly and Ellis

Vacated and Dismissed

Filed: March 26, 2025