

Dismissed and Opinion filed January 31, 2002.



In The
Fourteenth Court of Appeals

NO. 14-01-01003-CV

THOMAS P. EHRLICH, Appellant

V.

BRUCE GOULD OLSEN, Appellee

**On Appeal from the County Civil Court at Law No. 2
Harris County, Texas
Trial Court Cause No. 757,659**

MEMORANDUM OPINION

Appellee brought a forcible detainer action against appellant in justice court, and possession was awarded to appellee. On de novo review, the county court again awarded possession to appellee and signed a judgment on October 1, 2001. Appellant now appeals the county court's judgment to this Court. The trial court ordered appellant to post a supersedeas bond in the amount of \$30,000. Appellant filed an affidavit of indigency, but the trial court sustained appellee's contest to the affidavit. Appellant failed to post the required supersedeas bond, and a writ of possession was issued.¹

¹

An appeal alone will not supersede a writ of possession. TEX. PROP. CODE ANN. § 24.007 (Vernon Supp. 2002). Appellant must file a supersedeas bond in an amount set by the county court within 10 days of the signing of the judgment. *Id.*

Jurisdiction to hear forcible detainer actions is vested in justice courts, and on appeal, to county courts for trial de novo. TEX. PROP. CODE ANN. § 24.004 (Vernon 2000); TEX. R. CIV. P. 749. A justice court is without jurisdiction to adjudicate title to land. TEX. GOV'T. CODE ANN. § 27.031(b)(4) (Vernon Supp.2002). Thus, neither a justice court, nor a county court on appeal, has jurisdiction to determine the issue of title to real property in a forcible detainer suit. TEX. R. CIV. P. 746; *Mitchell v. Armstrong*, 911 S.W.2d 169, 171 (Tex. App.—Houston [1st Dist.] 1995, writ denied).

A forcible detainer action is a procedure to determine the right to immediate possession of real property. It is intended to be a speedy, simple, and inexpensive means to obtain possession without resort to an action on the title. *Scott v. Hewitt*, 127 Tex. 31, 35, 90 S.W.2d 816, 818-19 (1936). A forcible detainer action is not exclusive, but cumulative, of any other remedy that a party may have in the courts of this state, the displaced party is entitled to bring a separate suit in the district court to determine the question of title. *Id.*

On January 17, 2002, appellee filed a motion to dismiss the appeal because the case has been rendered moot. According to appellee's affidavit attached to the motion, the writ of possession was served on appellant and appellant has now been evicted from the property at issue in this appeal. Appellant filed a response to the motion, in which he complains of the trial court's actions, and asserts that a title dispute exists. He does not dispute, however, that he is no longer in possession of the property.

After a writ of possession issues and appellant has been removed from the premises, the appeal of a forcible detainer action is rendered moot. *Kemper v. Stonegate Manor Apartments, Ltd.*, 29 S.W.3d 362, 363 (Tex. App.—Beaumont 2000, no writ). It must be possible for a court of appeals to grant effectual relief that will resolve the controversy at issue in the appeal. See *Shelby Operating Co. v. City of Waskom*, 964 S.W.2d 75, 81 (Tex. App.—Texarkana 1997, pet. denied); *Zimmerman v. Ottis*, 941 S.W.2d 259, 263 (Tex. App.—Corpus Christi 1996, no writ). We are prohibited from deciding moot controversies. See *National Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999).

Accordingly, we grant appellee's motion and order the appeal dismissed.

PER CURIAM

Judgment rendered and Opinion filed January 31, 2002.

Panel consists of Chief Justice Brister, Justices Fowler and Seymore.

Do Not Publish — TEX. R. APP. P. 47.3(b).