



COURT OF APPEALS
EIGHTH DISTRICT OF TEXAS
EL PASO, TEXAS

THE NEVAREZ LAW FIRM, P.C.,	§	No. 08-20-00094-CV
Appellant,	§	
v.	§	Appeal from the
INVESTOR LAND SERVICES, L.L.C.,	§	County Court at Law No. 3
HORIZON GROWTH PROPERTIES,	§	
L.L.C., DENNIS ARDIZZONI, TERRY	§	of El Paso County, Texas
MCLACHLAN, and IAN MARTIN d/b/a	§	(TC# 2017DCV4194)
DISCOUNT LAND EXCHANGE, d/b/a	§	
INVESTORLAND SERVICES,		
Appellees.		

MEMORANDUM OPINION

This matter is before the Court on its own motion to determine whether this attempted appeal should be dismissed for want of jurisdiction. Finding that the notice of appeal was not timely filed, we dismiss for want of jurisdiction.

In civil cases, a notice of appeal must be filed within 30 days after the trial court's judgment is signed except when a party timely files a motion for new trial, in which case the notice of appeal must be filed within 90 days after the trial court's judgment is signed. TEX.R.APP.P. 26.1(a)(1). To be timely, a motion for new trial or a motion to modify, correct, or reform a judgment must be filed prior to or within 30 days after the judgment or other order complained of is signed.

TEX.R.CIV.P. 329b. A motion for new trial filed after the 30-day deadline set by Rule 329b does not extend the appellate timetable for filing a notice of appeal. *See Coffee v. Coffee*, No. 03-16-00466-CV, 2016 WL 4272122, at *1 (Tex.App.—Austin Aug. 11, 2016, no pet.)(mem. op.); *Gilani v. Kaempfe*, 331 S.W.3d 879, 879 (Tex.App.—Dallas 2011, no pet.)(dismissing appeal for want of jurisdiction after concluding that appellant’s motion for new trial filed 31 days after signing of judgment was untimely and failed to extend appellate timetable).

Here, the trial court signed its judgment on February 4, 2020. To be timely filed and operate to extend the time to file a notice of appeal in this Court from 30 days to 90 days, any motion for new trial or other judgment-altering motion must have been filed by the thirtieth day after judgment, which fell on March 5, 2020.¹

In its response to a letter from the Clerk of the Court identifying an issue with the timeliness of the notice of appeal, Appellant asserted that a motion for new trial was filed on March 6, 2020, and that the motion was timely and extended the appellate timetable to file a notice of appeal from 30 days to 90 days, making the April 2, 2020 notice of appeal timely. The timestamp on the “Plaintiff’s Motion to Reconsider, Motion to Modify, Motion to Correct, Motion to Reform, Motion to Vacate, Motion to Set Aside, Motion to Reopen, Motion to Reinstate, and Motion for New Trial” confirms that the motion was filed at 9:29 a.m. on March 6, 2020.

However, March 6, 2020, was the *thirty-first* day after judgment.² As such, the motion for new trial was not timely under Rule 329b, and consequently, it did not extend the time to file a

¹ In computing time, the day of an event after which a designated period begins to run is not included when computing a period prescribed by the Rules, but the last day of the period is included. *See* TEX.R.APP.P. 4.1(a).

² The one-day discrepancy in understanding here may stem from the fact that 2020 is a leap year and that February 2020 was 29 days long rather than 28 days long. In an ordinary year, 30 days from February 4 would be March 6. However, because February this year contained an extra day, the 30-day deadline fell on March 5 instead. A hand count using February 4 as Day Zero, February 5 as Day One, etc., as required by TEX.R.APP.P. 4 confirms that when the extra “leap day” of February is counted, the 30-day deadline for filing a motion for new trial fell on March 5.

notice of appeal. *See Gilani*, 331 S.W.3d at 879 (court of appeals lacked jurisdiction where motion for new trial was filed on thirty-first day and the notice of appeal was not filed within 30 days of judgment). Consequently, the notice of appeal was due no later than 30 days after judgment under Rule 26.1(a) (March 5) or within 15 days of the Rule 26.1(a) deadline if accompanied by a Rule 26.3 motion for extension of time (March 20).

Because the notice of appeal was not timely filed and Appellant did not file a timely motion to extend time to file the notice of appeal, we lack jurisdiction over this matter. *See* TEX.R.APP.P. 26.1(a); TEX.R.CIV.P. 329b. This attempted appeal is dismissed.

GINA M. PALAFOX, Justice

June 26, 2020

Before Alley, C.J., Rodriguez, and Palafox, JJ.