

**COURT OF APPEALS OF TEXAS, THIRTEENTH DISTRICT, CORPUS  
CHRISTI-EDINBURG**

**Southern Nurseries, Inc. and Kathy Garfield v. Maria Guadalupe  
Solis**

No. 13-09-00664-CV · No. 13-09-00664-CV · Decided February 11, 2010

**SUMMARY**

The Thirteenth Court of Appeals of Texas granted appellants' motion to dismiss their appeal because no issue remained in controversy. The appeal was dismissed under Texas Rule of Appellate Procedure 42.1(a), with costs taxed against appellants and the mandate ordered to issue forthwith.

**CASE DETAILS**

|                              |                                                                                                                                                                                |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>COURT</b>                 | Court of Appeals of Texas, Thirteenth District, Corpus Christi-Edinburg                                                                                                        |
| <b>WRITING FOR THE COURT</b> | Justice Rodriguez; Justice Garza; Justice Benavides                                                                                                                            |
| <b>JURISDICTION</b>          | Texas                                                                                                                                                                          |
| <b>DECIDED</b>               | February 11, 2010                                                                                                                                                              |
| <b>DOCKET</b>                | 13-09-00664-CV                                                                                                                                                                 |
| <b>DISPOSITION</b>           | dismissed                                                                                                                                                                      |
| <b>PROCEDURAL POSTURE</b>    | Appellants attempted to perfect an appeal from an order of the 93rd District Court of Hidalgo County and moved to dismiss the appeal because no issue remained in controversy. |
| <b>PRECEDENTIAL VALUE</b>    | published                                                                                                                                                                      |
| <b>PARTIES</b>               | Southern Nurseries, Inc., Kathy Garfield v. Maria Guadalupe Solis, et al.                                                                                                      |

**TOPICS**

mootness

appellate procedure

costs

civil procedure

**PRACTICE AREAS**

appellate procedure

civil procedure

**QUESTIONS PRESENTED**

1. Whether the appeal should be dismissed at appellants' request because there was no longer an issue in controversy.
2. Whether costs should be taxed against appellants following dismissal.

#### HOLDINGS

1. The court granted appellants' motion to dismiss and dismissed the appeal because there was no longer an issue in controversy.
2. Costs were taxed against appellants.

#### KEY QUOTATIONS

*“Absent agreement of the parties, the court will tax costs against the appellant.”*

#### FACTUAL BACKGROUND

The opinion provides no substantive factual background concerning the underlying dispute. Appellants sought dismissal of their appeal, asserting that no issue remained in controversy.

#### PROCEDURAL HISTORY

The appeal arose from an order entered by the 93rd District Court of Hidalgo County, Texas, in cause number C-290-09-B. During the appeal, appellants moved for dismissal on the ground that there was no longer an issue in controversy. The court granted the motion, dismissed the appeal, taxed costs against appellants, and directed that no motion for rehearing would be entertained and that the mandate issue forthwith.

#### DISPOSITION

dismissed

#### OPINION

PER CURIAM.

NUMBER 13-09-00664-CV COURT OF APPEALS THIRTEENTH DISTRICT OF TEXAS  
CORPUS CHRISTI - EDINBURG  
SOUTHERN  
NURSERIES, INC. AND KATHY GARFIELD, Appellants, v. MARIA GUADALUPE SOLIS,  
ET AL., Appellees.

On appeal from the 93rd District Court of Hidalgo County, Texas.  
MEMORANDUM

OPINION Before Justices Rodriguez, Garza, and Benavides Memorandum Opinion Per Curiam  
Appellants, Southern Nurseries, Inc. and Kathy Garfield, attempted to perfect an appeal from an  
order entered by the 93rd District Court of Hidalgo, County, Texas, in cause no. C-290-09-B.

Appellants have filed a motion to dismiss the appeal on grounds that there is no longer an issue in controversy. Appellants request that this Court dismiss the appeal. The Court, having considered the documents on file and appellants' motion to dismiss the appeal, is of the opinion that the motion should be granted. See Tex. R. App. P. 42.1(a). Appellants' motion to dismiss is granted, and the appeal is hereby DISMISSED.

Costs will be taxed against appellants. See Tex. R. App. P. 42.1(d) ("Absent agreement of the parties, the court will tax costs against the appellant."). Having dismissed the appeal at appellants' request, no motion for rehearing will be entertained, and our mandate will issue forthwith. PER CURIAM Delivered and filed the 11th day of February, 2010.