

FOURTH COURT OF APPEALS OF TEXAS, SAN ANTONIO

Frank Herrera v. Inverterra Holdings, LLC

No. 04-22-00794-CV (Tex. App.—San Antonio Mar. 1, 2023) (mem. op.) · No. 04-22-00794-CV · Decided March 1, 2023

SUMMARY

The Fourth Court of Appeals of Texas dismissed Frank Herrera’s appeal from a forcible detainer judgment for want of jurisdiction. The court held that the appeal was moot because Herrera did not post a supersedeas bond, the writ of possession was executed, and he failed to show a potentially meritorious claim to current, actual possession of the property.

CASE DETAILS

COURT	Fourth Court of Appeals of Texas, San Antonio
WRITING FOR THE COURT	Beth Watkins, Justice; Liza A. Rodriguez, Justice; Lori I. Valenzuela, Justice
JURISDICTION	Fourth Court of Appeals of Texas, San Antonio
DECIDED	March 1, 2023
DOCKET	04-22-00794-CV
DISPOSITION	dismissed
PROCEDURAL POSTURE	Herrera appealed a county court at law judgment awarding possession to Inverterra in a forcible detainer action.
STANDARD OF REVIEW	The court reviewed whether the appeal remained justiciable after execution of the writ of possession and whether Herrera had shown a potentially meritorious claim of right to current, actual possession.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status is not otherwise stated in the opinion text.
PARTIES	Frank Herrera v. Inverterra Holdings, LLC

TOPICS

eviction mootness appellate procedure civil procedure probate

PRACTICE AREAS

civil procedure appellate procedure real estate probate

QUESTIONS PRESENTED

1. Whether the appeal became moot after Herrera failed to supersede the possession judgment and the writ of possession was executed.
2. Whether Herrera demonstrated a potentially meritorious claim of right to current, actual possession sufficient to avoid dismissal as moot.
3. Whether Herrera’s indigence relieved him of the obligation to file a supersedeas bond in a county-court forcible detainer appeal.
4. Whether the appellate court could review the merits of the probate court’s heirship findings in this separate forcible detainer appeal.

HOLDINGS

1. When a forcible detainer appellant fails to supersede the judgment, loses possession, and cannot show a potentially meritorious claim of right to current, actual possession, the appeal is moot and must be dismissed for want of jurisdiction.
2. A forcible detainer appellant’s indigence does not relieve the appellant of the obligation to file a supersedeas bond to stay enforcement of a county-court eviction judgment.
3. The court could not review the merits of the probate court’s heirship findings in this separate forcible detainer proceeding absent a showing that the probate judgment was void.

KEY QUOTATIONS

“In an appeal to this court from a county court at law’s judgment of eviction, a party’s indigence does not relieve him of the obligation to file a supersedeas bond.” (at 3)

“Because Herrera did not pay a supersedeas bond within ten days of the signing of the county court at law’s judgment, the plain language of the Texas Property Code did not permit either the county court at law or this court to stay execution of the judgment “under any circumstances[.]”” (at 4)

“Because the writ of possession was executed and Herrera did not show that he has a potentially meritorious claim of right to actual possession of the property, we conclude Herrera’s appeal is moot.” (at 5)

FACTUAL BACKGROUND

Inverterra brought a forcible detainer action to evict Herrera from residential property in San Antonio. It relied on a probate-court order finding that Herrera was not an heir of the former owner, had fraudulently filed a small-estate affidavit, and had fraudulently deeded the property to himself, as well as a deed showing Inverterra purchased the property from the estate’s dependent administrator. Herrera did not pay a supersedeas bond, and a writ of possession was executed on January 4, 2023, placing an Inverterra agent in possession. Herrera asserted that he was the former owner’s brother, but provided no facts establishing a potentially meritorious inheritance-based right to immediate possession.

PROCEDURAL HISTORY

Inverterra filed a forcible detainer action in justice court and obtained a judgment of possession. Herrera appealed to the Bexar County Court at Law, which entered another judgment awarding possession to Inverterra. Herrera appealed to the Fourth Court of Appeals, but did not pay a supersedeas bond; the writ of possession was executed during the appeal, placing Inverterra in possession. The court ordered Herrera to explain why the appeal should not be dismissed as moot and then dismissed the appeal for want of jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Marshall v. Hous. Auth. of the City of San Antonio, 198 S.W.3d 782, 785–87 (Tex. 2006)
- Johnson v. Freo Tex. LLC, No. 01-15-00398-CV, 2016 WL 2745265, at *2 (Tex. App.—Houston [1st Dist.] May 10, 2016, no pet.) (mem. op.)
- Stone v. K Clark Prop. Mgmt. LLC, No. 04-20-00124-CV, 2020 WL 2139294, at *2 (Tex. App.—San Antonio May 6, 2020, no pet.) (mem. op.)
- Browning v. Prostok, 165 S.W.3d 336, 346 (Tex. 2005)
- AAA Free Move Ministorage, LLC v. OIS Invs., Inc., 419 S.W.3d 522, 526 (Tex. App.—San Antonio 2013, pet. denied)

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