

**COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO**

**Barbara Moss-Schulze v. EMC Mortgage Corporation**

No. 08-07-00098-CV · No. 08-07-00098-CV · Decided May 22, 2008

---

**SUMMARY**

The Eighth District Court of Appeals of Texas dismissed Barbara Moss-Schulze's appeal as moot after the property involved in EMC Mortgage Corporation's foreclosure proceeding was sold. The court held that any judgment would have no effect on an existing controversy and granted EMC's motion to dismiss.

**OPINION**

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS BARBARA MOSS-SCHULZE, § No. 08-07-00098-CV Appellant, § Appeal from the v. § 73rd Judicial District Court § EMC MORTGAGE CORPORATION, of Bexar County, Texas § Appellee. (TC# 2005-CI-06777 ) § OPINION Pending before the Court is Appellee, EMC Mortgage Corporation's ("EMC") motion to dismiss this appeal.

Finding that the property which was the subject of the underlying lawsuit has been sold, we will dismiss the appeal as moot. Appellant, Ms. Barbara Moss-Schulze purchased the property at issue in January of 2003. She financed the purchase with a mortgage loan from EMC. This appeal arises from EMC's attempt to foreclose on the property after Ms. Schulze failed to make payments.

In its motion to dismiss, EMC represents to the Court that the foreclosure proceeded and the property has been sold. The motion includes an authenticated copy of the Substitute Trustee's Deed executed at the foreclosure sale. When the judgment of this Court can have no effect on an existing controversy, a case becomes moot and should be dismissed. See *F.D.I.C. v. Nueces County*, 886 S.W.2d 766, 767 (Tex.

1994); *Restrepo v. First Nat'l Bank of Dona Ana County, New Mexico*, 888 S.W.2d 606, 607 (Tex.App.--El Paso 1994, no writ). Because the property which was the subject of this appeal has been sold, any judgment issued by the Court would have no effect as there is no longer a controversy to resolve. See *F.D.I.C.*, 886 S.W.2d at 767.

Thus, Appellant's case has become moot. Accordingly, we grant Appellee's motion and dismiss the appeal. May 22, 2008 DAVID WELLINGTON CHEW, Chief Justice Before Chew, C.J., McClure, and Carr, JJ. -2-

---

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/texas-court-of-appeals-of-texas-eighth-district-el-paso/2008/barbara-moss-schulze-v-emc-mortgage-corporation-xs8rdb4i>