

DISMISS; Opinion filed October 10, 2012

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-11-00878-CV

MATHEW OLANYA, Appellant

V.

U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR RASC 2005KS10, Appellee

On Appeal from the County Court at Law No. 4
Dallas County, Texas
Trial Court Cause No. CC-11-04019-D

MEMORANDUM OPINION

Before Chief Justice Wright and Justices Francis and Lang-Miers
Opinion By Chief Justice Wright

Before the Court is appellee's motion to dismiss the appeal as moot. Appellant appeals from the trial court's judgment awarding possession of property to appellee. Appellee informs the Court that it obtained a writ of possession and has been given possession of the property. Appellant did not file a response to the motion to dismiss.

A case becomes moot if, at any stage during the proceedings, a controversy ceases to exist between the parties. *See Williams v. Lara*, 52 S.W.3d 171, 184 (Tex. 2001). The purpose of a forcible detainer action is to obtain immediate possession of property. *See Scott v. Hewitt*, 127 Tex. 31, 35, 90 S.W.2d 816, 818-19 (1936). A judgment of possession in a forcible detainer action

determines the right of immediate possession and is not intended to be a final determination of whether the eviction is wrongful. *See Marshall v. Housing Auth. of the City of San Antonio*, 198 S.W.3d 782, 787 (Tex. 2006).

Appellant failed to supercede the trial court's judgment. The judgment has been executed on and appellee is now in possession of the property. The issue of possession is no longer in controversy. Accordingly, we grant appellee's motion and dismiss the appeal. *See* TEX. R. APP. P. 42.3(a).

CAROLYN WRIGHT
CHIEF JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

MATHEW OLANYA, Appellant

No. 05-11-00878-CV V.

U.S. BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR RASC 2005KS10, Appellee

Appeal from the County Court at Law No. 4
of Dallas County, Texas. (Tr.Ct.No. CC-11-
04019-D).

Opinion delivered by Chief Justice Wright,
Justices Francis and Lang-Miers,
participating.

Based on the Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee, U.S. Bank National Association as Trustee for RASC 2005KS10, recover its costs of the appeal from appellant, Mathew Olanya.

Judgment entered October 10, 2012.

/Carolyn Wright/

CAROLYN WRIGHT
CHIEF JUSTICE