

Dismissed and Opinion filed September 16, 1999.



In The

Fourteenth Court of Appeals

NO. 14-99-00881-CV

CREATIVE PROPERTY MANAGEMENT COMPANY, Appellant/Cross-Appellee

V.

CYNTHIA HOOKS AND WHYRLIN K. HOOKS, Appellees/Cross-Appellants

**On Appeal from the 133rd District Court
Harris County, Texas
Trial Court Cause No. 97-46382**

OPINION

This is an appeal from a judgment signed April 5, 1999. Appellant filed a timely motion for new trial. The notice of appeal was due July 5, 1999. *See* TEX. R. APP. P. 26.1. Appellant, however, filed his notice of appeal on July 20, a date within 15 days of the due date for the notice of appeal. *See Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). Appellant did not file a motion to extend time to file the notice of appeal.

On August 10, 1999, appellees, who filed a timely notice of appeal and, therefore are also appellants in this case, filed a motion to dismiss the appeal. Appellees stated in their motion that their cross-appeal was filed only as a precaution to preserve appellate argument

if appellant's appeal was deemed timely. On August 26, 1999, we ordered appellant to file a proper motion to extend time to file the notice of appeal on or before September 6, 1999. *See* TEX. R. APP. P. 26.3;10.5(b). Appellant did not file a motion. We, therefore, grant appellee's motion and dismiss the appeal. *See* TEX. R. APP. P. 42.3.

PER CURIAM

Opinion filed September 16, 1999.

Panel consists of Justices Yates, Fowler, and Frost.

Do not publish — TEX. R. APP. P. 47.3(b).