

**DISMISS, DENY and Opinion Filed July 2, 2020**



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

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**No. 05-20-00643-CV**

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**IN RE DAY INVESTMENT GROUP, LLC, JASON MARTINEZ AND  
ANGELA YAUN, Relators**

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**Original Proceeding from the 416th Judicial District Court  
Collin County, Texas  
Trial Court Cause No. 416-02300-2020**

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**MEMORANDUM OPINION**

Before Justices Bridges, Osborne, and Reichek  
Opinion by Justice Reichek

Before the Court are relators' June 26, 2020 petition for writ of injunction and motion for emergency stay. In the petition, relators ask the Court to enjoin the scheduled foreclosure sale of their property.

A court of appeals "may issue a writ of mandamus and all other writs necessary to enforce jurisdiction of the court." TEX. GOV'T CODE ANN. § 22.221(a). For example, a court of appeals may issue a writ of injunction to prevent an appeal from becoming moot. *Dallas Morning News v. Fifth Court of Appeals*, 842 S.W.2d 655, 657 (Tex. 1992) (orig. proceeding); *In re Shields*, 190 S.W.3d 717, 719 (Tex. App.—Dallas 2005, orig. proceeding).

At the same time, “[t]he power granted by section 22.221(a) of the government code is not a power that is granted to prevent damage to the appellant pending appeal.” *In re Harris*, No. 05-14-00692-CV, 2014 WL 2527488, at \*1 (Tex. App.—Dallas Jun. 3, 2014, orig. proceeding). “That purpose is served by the statutes allowing appellants to supersede judgments by posting an appropriate bond.” *Id.* Rather, the power to issue a writ of injunction is limited to the purpose of protecting appellate jurisdiction. *Id.*

Here, relators assert that the pending foreclosure threatens this Court’s jurisdiction over their existing appeal. But unlike the cases cited by relators involving appeals of interlocutory orders, the foreclosure of the property at issue does not moot their claims in the appeal and, thus, does not implicate the Court’s jurisdiction over the appeal. Accordingly, because we lack jurisdiction to issue a writ of injunction under section 22.221(a) of the government code, we **DISMISS** the petition for writ of injunction. Having dismissed the original proceeding, we also **DENY** relators’ motion for emergency stay as moot.

/Amanda L. Reichek/  
AMANDA L. REICHEK  
JUSTICE

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