

FLING V. FLING, 1920-NMSC-089, 26 N.M. 421, 193 P. 499 (S. Ct. 1920)

**FLING
vs.
FLING**

No. 2471

SUPREME COURT OF NEW MEXICO

1920-NMSC-089, 26 N.M. 421, 193 P. 499

November 06, 1920

Appeal from District Court, Quay County; Leib, Judge.

Suit by Kate E. Fling against George R. Fling. From an order refusing to set aside an execution sale and to set aside the sheriff's deed, defendant appeals.

SYLLABUS

SYLLABUS

Where both appellant and appellee have parted with all their interest in the real estate in controversy, the appeal will be dismissed.

COUNSEL

J. W. Porter, of Tucumcari, for appellant.

JUDGES

Roberts, J. Parker, C. J., and Raynolds, J., concur.

AUTHOR: ROBERTS

OPINION

OPINION OF THE COURT.

{1} The appeal in this case was from an order of the court refusing to set aside a sale of certain real estate by the sheriff of Quay county to satisfy an execution, and to set aside the sheriff's deed issued in pursuance of said sale. The court refused the relief sought, and an appeal was taken. It has been made to appear to this court that both appellant and appellee have parted with all their interest in the real estate in controversy, and for

that reason the appeal will be dismissed under the authority of *Mardorf v. Norment*, 26 N.M. 221, 190 P. 736; and it is so ordered.