

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

**Greenwich Association, Inc. v. Greenwich Apartments, Inc. and
Alliance TD Limited Partnership**

979 So. 2d 1116 (Fla. 3d DCA 2008) · No. No. 3D07-1771 · Decided April 9, 2008

SUMMARY

The Florida Third District Court of Appeal affirmed dismissal of an action seeking reformation or cancellation of a settlement agreement incorporated into a 2001 final judgment. The court held that the judgment was voidable, not void, and that the alleged misconduct constituted intrinsic rather than extrinsic fraud, requiring a timely motion under Florida Rule of Civil Procedure 1.540(b) in the original trial court.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Rothenberg, J.; Cope, J.; Wells, J.
JURISDICTION	Florida
DECIDED	April 9, 2008
DOCKET	No. 3D07-1771
DISPOSITION	affirmed
PROCEDURAL POSTURE	Greenwich Association appealed a final order dismissing its claims after the trial court granted the defendants' motion for partial summary judgment on the claim seeking reformation or cancellation of a settlement agreement and the plaintiff voluntarily dismissed its remaining injunctive-relief count.
STANDARD OF REVIEW	De novo review of a final summary judgment.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Greenwich Association, Inc. v. Greenwich Apartments, Inc., Alliance TD Limited Partnership

TOPICS

summary judgment

civil procedure

standard of review

appellate procedure

remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the 2001 final judgment incorporating the settlement agreement was void because the association's president allegedly acted ultra vires.
2. Whether Greenwich Association could pursue an independent action based on alleged fraud without first filing a timely motion under Florida Rule of Civil Procedure 1.540(b).
3. Whether the trial court properly entered summary judgment and dismissed the action.

HOLDINGS

1. The 2001 judgment was voidable, not void, because the court had subject-matter and personal jurisdiction; an alleged error in the judgment did not deprive the judgment of validity.
2. The alleged fraud was intrinsic, not extrinsic fraud upon the court, and therefore could not support an independent action filed years after the judgment; relief had to be sought by a timely Rule 1.540(b) motion in the original trial court.

KEY QUOTATIONS

"The plaintiff first argues that the 2001 judgment must be stricken as void because the settlement agreement that it incorporated was the result of a void, ultra vires act of the plaintiff's president. We disagree, and hold that the 2001 judgment was voidable, not void." (1118)

"Assuming that such an allegation rises to the level of fraud, we conclude that the fraud alleged was intrinsic in nature, and therefore, to seek relief from the 2001 judgment upon that basis, the plaintiff was required to file a rule 1.540(b) motion within one year of the rendering of the judgment." (1119)

FACTUAL BACKGROUND

Greenwich Association, a Florida not-for-profit corporation, sued a neighboring residential complex in 1999 concerning the use of a two-story parking structure owned by the association. In 2001, the parties entered into a settlement granting Greenwich Apartments the exclusive use of one story of the structure, and the agreement was incorporated into a final circuit-court order dismissing the case. The association later alleged that its president lacked authority to enter the agreement without a vote of the unit owners and filed an independent action seeking reformation or cancellation, asserting that the agreement resulted from an ultra vires act and fraud.

PROCEDURAL HISTORY

The parties entered into a 2001 settlement agreement that was incorporated into a final circuit-court judgment dismissing the earlier action. In 2005, Greenwich Association filed an independent action seeking reformation or cancellation of the settlement agreement and injunctive relief. The trial court granted partial summary judgment, concluding that challenges to the judgment had to be brought by appeal or under Florida Rule of Civil Procedure 1.540(b); after the second count was voluntarily dismissed, the court entered final judgment for the defendants. The appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126, 130 (Fla. 2000)
- Sheikh v. Coregis Ins. Co., 943 So. 2d 242, 243 (Fla. 3d DCA 2006)
- Sterling Factors Corp. v. U.S. Bank Nat'l Ass'n, 968 So. 2d 658, 666 (Fla. 2d DCA 2007)
- Dep't of Health & Rehab. Servs. v. Morley, 570 So. 2d 402, 404 (Fla. 5th DCA 1990)
- Alexander v. First Nat'l Bank of Titusville, 275 So. 2d 272, 274 (Fla. 4th DCA 1973)
- Parker v. Parker, 950 So. 2d 388, 391-92 (Fla. 2006)
- DeClaire v. Yohanan, 453 So. 2d 375, 377 (Fla. 1984)

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