DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Federal Home Loan Mortgage Corporation v. James Beekman

174 So. 3d 472 (Fla. Dist. Ct. App. 2015) · No. No. 4D13-4086 · Decided August 19, 2015

SUMMARY

The Fourth District Court of Appeal of Florida held that the trial court erred by granting a mortgage loan modification that was not requested in the pleadings and was not tried by consent. The court further held that the trial court lacked authority to impose an unbargained-for modification contract unsupported by competent substantial evidence. The judgment was reversed and the case remanded for a new trial, with leave to amend the pleadings if the applicable standard was met.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Forst, J.; Ciklin, C.J.; Klingensmith, J.
JURISDICTION	Florida
DECIDED	August 19, 2015
DOCKET	No. 4D13-4086
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal by the mortgage holder from a final judgment granting the borrower a loan modification, and cross-appeal by the borrower from denial of leave to amend his answer, affirmative defenses, and counterclaims.
STANDARD OF REVIEW	The denial of leave to amend pleadings is generally reviewed for abuse of discretion, subject to the policy favoring liberal amendment. The appellate court reviewed whether the trial court could grant relief outside the pleadings and whether the modification judgment was supported by the pleadings and evidence.
PRECEDENTIAL VALUE	published appellate opinion
PARTIES	Federal Home Loan Mortgage Corporation v. James Beekman

TOPICS

pleadings · motion to amend · civil procedure · contracts · remedies

PRACTICE AREAS

civil procedure | foreclosure | mortgages | contracts | appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court could grant a loan modification when the borrower had not requested that relief in his pleadings and the issue was not tried by express or implied consent.
2. Whether the trial court exceeded its authority by imposing a new, unbargained-for loan-modification contract lacking evidentiary support.
3. Whether the trial court erred in denying the borrower's motion to amend his answer and affirmative defenses and to assert counterclaims.

HOLDINGS

1. A court may not grant relief wholly outside the pleadings unless the issue was tried by express or implied consent. Because the mortgage holder objected to modification-related testimony, had a continuing objection to matters outside the evidence, lacked notice that modification was sought as a remedy, and could have presented additional evidence, the loan-modification issue was not tried by consent.
2. The trial court exceeded its authority by imposing a new loan-modification contract that was not bargained for and whose terms lacked evidentiary support.
3. The borrower should be allowed to amend his answer and affirmative defenses if he meets the established legal standard governing amendment of pleadings.

KEY QUOTATIONS

> *"Generally, "courts are not authorized to grant relief not requested in the pleadings.""* (174 So. 3d at 473)

> *""[A] judgment which grants relief wholly outside the pleadings is void.""* (174 So. 3d at 473)

> *"An issue is tried by consent "when there is no objection to the introduction of evidence on that issue.""* (174 So. 3d at 474)

> *""However, a court has no right to write a contract for parties where none exists.""* (174 So. 3d at 475)

> *""It is never the role of the trial court to rewrite a contract to make it more reasonable for one of the parties or to relieve a party from what turns out to be a bad bargain.""* (174 So. 3d at 475)

FACTUAL BACKGROUND

The borrower executed a note and mortgage in 2005 and later stopped making payments. In the foreclosure action, he admitted nonpayment but pleaded only lack of standing. At trial, evidence concerned a trial loan modification, the borrower's alleged submission of financial documents, and whether he qualified for a permanent modification; the modification agreement was unsigned by the note holder or servicer. The trial court nevertheless found that the borrower qualified and ordered compliance with a modification whose payment terms and other material terms were not fully supported by the evidence.

PROCEDURAL HISTORY

Federal Home Loan Mortgage Corporation filed a foreclosure action after the borrower stopped making mortgage payments. The borrower answered by asserting only lack of standing and later moved, shortly before a nonjury trial, to add nineteen affirmative defenses and eleven counterclaims; the trial court denied that motion. After trial, the court found that the loan-modification issue had been tried by consent and ordered the parties to comply with a modification offer. The Fourth District reversed and remanded for a new trial, directing that the borrower should be permitted to amend if he met the applicable legal standard.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a new trial. If the borrower meets the established legal standard governing amendment of pleadings, he should be allowed to amend his answer and affirmative defenses.

CASES CITED

- Thompson v. Jared Kane Co., 872 So. 2d 356, 360 (Fla. 2d DCA 2004)
- PNC Bank, N.A. v. Progressive Emp'r Servs. II, 55 So. 3d 655, 660 (Fla. 4th DCA 2011)
- Fields v. Klein, 946 So. 2d 119, 121 (Fla. 4th DCA 2007)
- Noble v. Martin Mem'l Hosp. Ass'n Inc., 710 So. 2d 567, 568 (Fla. 4th DCA 1997)
- Cardinal Inv. Grp., Inc. v. Giles, 813 So. 2d 262, 263 (Fla. 4th DCA 2002)
- Homestead-Miami Speedway, LLC v. City of Miami, 828 So. 2d 411, 413 (Fla. 3d DCA 2002)
- Pond v. McKnight, 339 So. 2d 1149 (Fla. 2d DCA 1976)
- Bank of N.Y. Mellon v. Reyes, 126 So. 3d 304, 309 (Fla. 3d DCA 2013)
- Scariti v. Sabillon, 16 So. 3d 144, 145-46 (Fla. 4th DCA 2009)
- LRX, Inc. v. Horizon Assocs. Joint Venture ex rel. Horizon-ANF, Inc., 842 So. 2d 881, 887 (Fla. 4th DCA 2003)
- Robinson v. Robinson, 340 So. 2d 935, 936 (Fla. 4th DCA 1976)
- Smith v. Mogelvang, 432 So. 2d 119, 122 (Fla. 2d DCA 1983)
- Buday v. Ayer, 754 So. 2d 771, 773 (Fla. 2d DCA 2000)
- Belitz v. Riebe, 495 So. 2d 775, 776-77 (Fla. 5th DCA 1986)
- Feldman v. Kritch, 824 So. 2d 274, 277 (Fla. 4th DCA 2002)