

FLORIDA DISTRICT COURT OF APPEAL, THIRD DISTRICT

Haven Center, Inc. v. Meruelo

22 So. 3d 849 (Fla. 3d DCA 2009) · Decided December 2, 2009

SUMMARY

The Florida District Court of Appeal addresses an appeal from summary judgment on compulsory counterclaims arising from a real estate contract while the plaintiff's related claims remained pending. The court held that the counterclaims were not separately appealable as a final disposition, reversed the judgment to the extent it included the phrase “go hence without day,” and otherwise left the summary judgment intact.

CASE DETAILS

COURT	Florida District Court of Appeal, Third District
WRITING FOR THE COURT	Cope; Lagoa; Salter
JURISDICTION	Florida
DECIDED	December 2, 2009
DISPOSITION	reversed
PROCEDURAL POSTURE	Haven Center appealed a final summary judgment disposing of its counterclaims, although Meruelo's claims for declaratory judgment and specific performance remained pending. The appellate court considered the appealability and finality of the judgment on rehearing or clarification.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Haven Center, Inc. v. Homero Meruelo

TOPICS

- final judgment rule
- appellate jurisdiction
- summary judgment
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- contracts
- real estate

QUESTIONS PRESENTED

1. Whether a judgment adjudicating compulsory counterclaims is appealable before the plaintiff's original claims arising from the same contract and transactions have been fully adjudicated.

2. Whether the trial court's inclusion of the phrase "go hence without day" improperly characterized the judgment on the counterclaims as final.
3. Whether the appellate court should disturb the trial court's summary judgment on the counterclaims.

HOLDINGS

1. A judgment adjudicating compulsory counterclaims is not appealable until the original claims have been finally disposed of on the merits when the claims and counterclaims arise from the same contract, transactions, and occurrences.
2. The phrase "go hence without day" must be removed because the judgment was not actually final while Meruelo's claims remained pending.

KEY QUOTATIONS

"The adjudication of compulsory counterclaims such as these is "not appeal-able until a final disposition of the original cause has obtained on the merits."" (849)

"We reverse the judgment to the extent that it includes the phrase "go hence without day" because it is not, in fact, a final judgment" (849)

FACTUAL BACKGROUND

Meruelo's claims against Haven Center concerned declaratory judgment and specific performance of a real estate contract. Haven Center's counterclaims arose from the same contract, transactions, and occurrences. The trial court entered summary judgment against Haven Center on its counterclaims, even though Meruelo's claims remained pending, and added language purporting to make the judgment final.

PROCEDURAL HISTORY

Meruelo sued Haven Center on a real estate contract and asserted claims for declaratory judgment and specific performance. Haven Center brought compulsory counterclaims arising from the same contract, transactions, and occurrences. The trial court entered summary judgment on the counterclaims and included language that Haven Center would "take nothing on its counterclaim and go hence without day," but did not adjudicate Meruelo's claims. The Third District reversed the judgment in part by removing the finality language while leaving the summary judgment on the counterclaims undisturbed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The court removed the phrase "go hence without day" without disturbing the entry of summary judgment on the counterclaim and without prejudice to the parties' right to appeal after all claims and counterclaims have been adjudicated.

CASES CITED

- Campbell v. Gordon, 674 So. 2d 783, 785 (Fla. 1st DCA 1996)
- Northcutt v. Pathway Financial, 555 So. 2d 368 (Fla. 3d DCA 1989)

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