

FLORIDA THIRD DISTRICT COURT OF APPEAL

Megan Cauble v. Gregory Kaczmarski

Cauble · No. 3D24-1510 · Decided September 17, 2025

SUMMARY

The Third District Court of Appeal of Florida reviews a partition dispute involving two condominium units jointly owned by Megan Cauble and Gregory Kaczmarski. The court holds that Cauble was entitled to credits for her share of delinquent Porto Bellagio carrying costs and at least half of the Castle Beach carrying costs, and that she should have been permitted to present expert testimony regarding fair rental value as an offset. The judgment is affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Miller, J.; Scales, C.J.; Gordo, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	September 17, 2025
DOCKET	3D24-1510
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final judgment in consolidated partition actions concerning two jointly owned condominium units.
STANDARD OF REVIEW	Factual findings in a nonjury trial are reviewed for competent, substantial evidence.
PRECEDENTIAL VALUE	Published
PARTIES	Megan Cauble v. Gregory Kaczmarski

TOPICS

- partition
- real estate
- remedies
- appellate procedure
- standard of review

PRACTICE AREAS

- real estate
- partition
- civil procedure
- remedies

QUESTIONS PRESENTED

1. Whether Cauble was entitled to a credit for one-half of delinquent Porto Bellagio carrying costs deducted from the partition-sale proceeds.
2. Whether the trial court properly found that Cauble remained in joint possession of Castle Beach after surrendering the unit to Kaczmariski.
3. Whether Cauble was entitled to offset Kaczmariski's Castle Beach carrying-cost contribution claim with the reasonable rental value of her use of the property and to present expert testimony on fair market rental value.

HOLDINGS

1. Because the parties agreed that Kaczmariski would have exclusive possession and use of Porto Bellagio and would pay its carrying costs, and Kaczmariski stipulated that he was not seeking those costs from Cauble, Cauble was entitled to a credit for one-half of the delinquent charges deducted from the sale proceeds.
2. The finding that Cauble remained in joint possession of Castle Beach after 2010 was unsustainable; Kaczmariski's possession and use was disproportionate to his fifty-percent ownership interest, making Cauble an out-of-possession cotenant entitled to at least one-half of the Castle Beach carrying costs as a credit.
3. As an out-of-possession cotenant, Cauble was entitled to offset Kaczmariski's claim for Castle Beach carrying costs with the reasonable rental value of Kaczmariski's use of the property, and she was authorized to present expert testimony on fair market rental value.

KEY QUOTATIONS

“Equally established is the principle that “when a cotenant in possession seeks contribution for amounts expended in the improvement or preservation of the property, that claim may be offset by cotenants out of possession by the reasonable rental value of the use of the property by the cotenant in possession to the extent it has exceeded his or her proportionate share of ownership.”” (at 5)

“As an out-of-possession cotenant, Cauble was entitled to receive a credit for, at a minimum, half of the Castle Beach carrying costs. She was further authorized to present expert testimony as to fair market value to offset those costs.” (at 5-6)

FACTUAL BACKGROUND

Cauble and Kaczmariski jointly purchased two condominium units and later agreed that each would possess one unit and bear its carrying costs. After Cauble lost her job in 2009, she surrendered Castle Beach to Kaczmariski, who rented it to vacationers and retained the rental proceeds; Cauble lacked a key and paid Kaczmariski rent when she stayed there with friends. In the partition accounting, the trial court treated the parties as jointly possessing Castle Beach, denied Cauble a credit for certain Porto Bellagio charges, awarded Kaczmariski a \$293,000 credit for Castle Beach carrying costs, and precluded Cauble from presenting expert testimony concerning fair rental value.

PROCEDURAL HISTORY

Cauble filed partition proceedings concerning Castle Beach and Porto Bellagio. After additional pleadings, counterclaims, dismissal of Kaczmariski's separate partition action, and a partial summary judgment of partition, the properties were sold by court order. Following a nonjury trial on allocation of sale proceeds, carrying costs, attorney's fees, and costs, the trial court awarded Kaczmariski credits for carrying costs and denied Cauble's request to present expert testimony on fair rental value. The Third District summarily affirmed most issues, but reversed the rulings concerning carrying-cost allocation and fair-rental-value evidence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct further proceedings consistent with the opinion, including crediting Cauble for one-half of the delinquent Porto Bellagio charges and at least one-half of the Castle Beach carrying costs, and permitting evidence, including expert testimony, concerning fair market rental value to offset the carrying-cost claim.

CASES CITED

- Q.G.S. Dev., Inc. v. Nat'l Lining Sys., Inc., 386 So. 3d 596, 598 (Fla. 3d DCA 2024)
- Guzman v. State, 721 So. 2d 1155, 1159 (Fla. 1998)
- Biondo v. Powers, 743 So. 2d 161, 163 (Fla. 4th DCA 1999)
- Lupo v. Lawson, 301 So. 3d 366, 368 (Fla. 2d DCA 2020)
- Glenda A. Wiley Goolsby v. Joseph B. Wiley, Goolsby v. Wiley, 547 So. 2d 227, 228 (Fla. 4th DCA 1989)
- James Barrow, Petitioner, v. Donna Barrow, Respondent, Barrow v. Barrow, 527 So. 2d 1373, 1377 (Fla. 1988)
- Goins v. Goins, 762 So. 2d 1049, 1050 (Fla. 5th DCA 2000)
- Brisciano v. Byard, 615 So. 2d 213, 214 (Fla. 1st DCA 1993)
- Ombres v. Ombres, 549 So. 2d 1113, 1114 (Fla. 4th DCA 1989)
- McCarthy v. McCarthy, 922 So. 2d 223, 226 (Fla. 3d DCA 2005)