

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2005*

**MARGARET M. LANNON,**  
Appellant,

v.

**JUSTIN ERIC FOLEY,**  
Appellee.

No. 4D04-2343

[November 23, 2005]

WARNER, J.

The trial court entered a final judgment finding that appellant, Margaret Lannon, failed to pay a promissory note to appellee, Justin Eric Foley, and entered judgment for its amount against Lannon. She appeals contending that the failure to attach the promissory note to the complaint was a fatal defect, precluding the court from granting relief on the note. However, she has provided no transcript of the proceedings below. When Lannon raised this issue on rehearing, the trial court entered a detailed order explaining that the issue had been tried by implied consent. *See Beefy Trail, Inc. v. Beefy King Int'l, Inc.*, 267 So. 2d 853, 857 (Fla. 4th DCA 1972) (stating that “[i]n cases which are tried on issues not raised in the pleadings, amendment of the pleadings to conform to the evidence, in the absence of an objection by the defendants, is not imperative and such issues can be treated in all respects as if they had been raised in the pleadings.”) Without a transcript of proceedings, the court’s rulings are presumed correct. *See Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150 (Fla. 1979). Because the issue was tried by implied consent, any defects in the pleadings have been waived in this case. We therefore affirm the final judgment.

GUNTHER and POLEN, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Timothy P. McCarthy, Judge; L.T. Case No. 502000CA004072XXOCAD.

Margaret Lannon, West Palm Beach, pro se.

Steven J. Vann, Palm Springs, for appellee.

***Not final until disposition of timely filed motion for rehearing.***