

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

McDANIEL RANCH PARTNERSHIP, )  
a Florida Partnership; J.W. McDANIEL, )  
SR., INC., a Florida corporation; MARY )  
McDANIEL, ROBERT E. McDANIEL, )  
JR., and JOHN L. McDANIEL, as )  
Trustees of the Robert E. McDaniel, Sr. )  
Residuary Marital Trust; MARY )  
McDANIEL, individually; ROBERT E. )  
McDANIEL, JR., individually; and )  
JOHN L. McDANIEL, individually, )  
)  
Appellants, )  
)  
v. )  
)  
McDANIEL RESERVE REALTY )  
HOLDINGS, LLC, a Florida limited )  
liability company; and McDANIEL )  
RESERVE HOLDINGS, LLC, a )  
Delaware limited liability company, )  
)  
Appellees. )  
)  
\_\_\_\_\_ )

Case No. 2D10-2414

Opinion filed September 7, 2012.

Appeal from the Circuit Court for Hendry  
County; G. Keith Cary, Judge.

Robert L. Donald of Law Office of Robert L.  
Donald, Fort Myers, for Appellants.

Julissa Rodriquez, Elliot H. Scherker, and  
Christopher B. Carbot of Greenberg  
Traurig, P.A., Miami, and Mark F. Bideau  
and Andrea Shwayri of Greenberg Traurig,

P.A., West Palm Beach, for Appellees.

PER CURIAM.

We have reviewed the eight issues raised by the appellants and conclude that none present reversible error. Accordingly, we affirm the final judgment. However, we make the following observations.

First, the trial court commented that notwithstanding its entry of final judgment, the appellees may later move to amend their claim of specific performance to seek damages in lieu of specific performance. We interpret that part of the final judgment as addressing a future procedural issue. Our affirmance should not be interpreted as approval of that procedural comment or as an indication of whether such a procedure would be proper.

Second, we are troubled by certain arguments made by the appellants' counsel before this court. For example, counsel argued that the appellants were not put on notice of the issue of anticipatory repudiation. However, the record on appeal contains the joint pretrial stipulation, signed by trial counsel for both parties, specifically identifying anticipatory repudiation as an issue to be tried. This discrepancy was brought out at oral argument, yet counsel persisted in contending that there was no notice of the issue. It is evident to this court that counsel's argument was not supported by the record on appeal, and we take this opportunity to remind counsel of the duty of candor to the court. See R. Regulating Fla. Bar 4-3.3(a)(1).

Affirmed.

ALTENBERND, KHOUZAM, and BLACK, JJ., Concur.