

Third District Court of Appeal

State of Florida, January Term, A.D. 2011

Opinion filed March 30, 2011.

Not final until disposition of timely filed motion for rehearing.

No. 3D10-1946

Lower Tribunal No. 08-44793

TP Orlando 504, LLC

Appellant,

vs.

Seymour International, Inc. and Roth, Rousso, Katzman, LLP,

Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Barbara Areces,
Judge.

Serber & Associates, and Alexandra J. Sanchez, and Sabrina Smulevich, for
appellant.

Katzman Garfinkel & Berger, and Scott D. Newsom (Maitland), for
appellees.

Before GERSTEN, SALTER, and EMAS, JJ.

EMAS, J.

Appellant, the plaintiff below, seeks review of an order denying its motion for partial final summary judgment on one count of its six-count complaint. That count alleged that appellee, Seymour International, Inc., violated the Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701-1720.

The order denying appellant's motion for summary judgment is a non-final order. Nat'l Assur. Underwriters, Inc. v. Kelley, 702 So. 2d 614 (Fla. 4th DCA 1997). Appeals of non-final orders are strictly limited to those specifically listed in Florida Rule of Appellate Procedure 9.130(a)(3). An order denying summary judgment is not appealable pursuant to Rule 9.130(a)(3), and this court lacks jurisdiction to entertain this appeal.¹ Id.

Appeal dismissed for lack of jurisdiction.

¹ Rule 9.130(a)(3) does permit appeals of a non-final order which, for example, concerns venue; grants, denies, or modifies injunctive relief; or determines the right to immediate possession of property. The instant order contains no findings or conclusions, other than its one-word ruling that the motion is "denied." Appellant has failed to provide a transcript of the hearing on the motion. In the absence of an adequate record, we are unable to determine the basis for the trial court's ruling and therefore, are unable to determine whether the trial court's order made findings or determinations that would provide this court with jurisdiction under the limited scope of Rule 9.130(a)(3). See e.g., Barber v. Wonderland Greyhound Park, 656 So. 2d 961 (Fla. 5th DCA 1995) (holding appellate court did not have jurisdiction to review non-final order under 9.130(a)(3)(B) where record failed to establish that trial court had considered whether injunctive relief should be granted).