

Third District Court of Appeal

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

Opinion filed August 24, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D10-2827
Lower Tribunal No. 06-27821

Michael W. Skop,
Appellant,

vs.

P3 Group, L.L.C., and Hypower, Inc.,
Appellees.

An appeal from a non-final order from the Circuit Court for Miami-Dade County, Gill S. Freeman, Judge.

Frank Wolland, for appellant.

Tripp Scott and Richard Petrovich, for appellees.

Before LAGOA and EMAS, JJ., and SCHWARTZ, Senior Judge.

LAGOA, J.

The appellant, Michael W. Skop (“Skop”), filed a second amended complaint against the appellees, P3 Group, L.L.C. (“P3 Group”), and its guarantor,

Hypower, Inc., asserting claims for breach of contract, fraudulent misrepresentation and negligent misrepresentation, and seeking to retain earnest money deposits and to obtain amounts purportedly due under an Agreement and Assignment. P3 Group counterclaimed, asserting claims for rescission, conversion, declaratory relief, unjust enrichment, and breach of fiduciary duty. Skop seeks review of the trial court's order dismissing his second amended complaint. Because we find that the trial court's order was not a final, appealable order, the appeal is dismissed.

A review of the record reveals that the claims asserted in Skop's second amended complaint are inextricably intertwined with P3 Group's pending counterclaims. As such, appellate review of the order, under this circumstance, is premature. See S.L.T. Warehouse Co. v. Webb, 304 So. 2d 97 (Fla. 1974); Arthur v. Smith, 8 So. 3d 502 (Fla. 1st DCA 2009); Marinich v. Special Editon Custom Homes, LLC, 1 So. 3d 1197 (Fla. 2d DCA 2009); Belle Isle Assocs., Inc. v. Nine Island Ave. Condo. Ass'n, 990 So. 2d 1176 (Fla. 3d DCA 2008). Accordingly, we grant the appellees' motion to dismiss the appeal for lack of jurisdiction. The dismissal, however, is without prejudice to any party's later appeal from a final, appealable order.

Appeal dismissed.