

Third District Court of Appeal

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

Opinion filed October 19, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D10-2644
Lower Tribunal No. 09-53000

Investacorp, Inc.,
Appellant,

vs.

George M. Evans and William A. Murphy,
Appellees.

An appeal from the Circuit Court for Miami-Dade County, Maxine Cohen Lando, Judge.

Bressler, Amery & Ross and Alex J. Sabo and Jonathan C. Schwartz (Miramar), for appellant.

Orlando R. Murillo, for appellee George M. Evans.

Before SUAREZ, LAGOA, and EMAS, JJ.

LAGOA, J.

Investacorp, Inc. (“Investacorp”), appeals a summary judgment awarding damages to George M. Evans and William A. Murphy on the conversion count of a

two-count complaint. The trial court reserved jurisdiction on the remaining civil theft count. For the following reasons, we reverse.

On August 31, 2010, the trial court entered a partial final judgment in favor of appellees/plaintiffs on the conversion count, and awarded them \$17,256.80 using the words of finality: “for which let execution issue, forthwith.” The trial court, however, retained jurisdiction to award fees and to enter judgment on the interrelated civil theft count, which remains pending.

“This court has held that it is improper for a trial court to let execution issue on a partial summary judgment for *damages*.” New Saga Corp. v. Strongwill Corp., 565 So. 2d 407, 408 (Fla. 3d DCA 1990); see also Rothermel v. BXL Assocs., 24 So. 3d 664, 665-66 (Fla. 3d DCA 2009); Molina v. Watkins, 824 So. 2d 959, 964 (Fla. 3d DCA 2002); Baumann v. Intracoastal Pac. Ltd. P’ship, 619 So. 2d 403 (Fla. 3d DCA 1993). Here, although the trial court reserved jurisdiction to consider the interrelated civil theft count, the partial judgment awarding damages on the conversion count improperly contains the language of finality “for which let execution issue, forthwith.” See Rothermel, 24 So. 3d at 665; Williamson v. Banta, 22 So. 3d 152 (Fla. 1st DCA 2009); Molina, 824 So. 2d at 964; see also Millennium Group I, L.L.C. v. Attorneys Title Ins. Fund, Inc., 847 So. 2d 1115, 1116-17 (Fla. 1st DCA 2003). Cf. Haven Ctr., Inc. v. Meruelo, 22 So. 3d 849 (Fla. 3d DCA 2009). Accordingly, we reverse the partial summary judgment before us and remand with directions to the trial court to strike the phrase

“for which let execution issue, forthwith.” Absent that language permitting execution, the partial summary judgment is merely an interlocutory order granting summary judgment, see Rothermel, 24 So. 3d at 665-66; Molina, 824 So. 2d at 964, and we therefore do not reach the merits of any of Investacorp’s arguments raised in this appeal.

Reversed and remanded for further proceedings consistent with this opinion.