

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

BENJAMIN CHANCEY AND ANGELIA CHANCEY,

Appellants,

v.

Case No. 5D20-705

MICHAEL YOUNG AND MARION COUNTY  
BOARD OF COMMISSIONERS,

Appellees.

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Opinion filed September 4, 2020

Appeal from the Circuit Court  
for Marion County,  
Robert W. Hodges, Judge.

Christopher L. Hixson, of Consumer Law  
Attorneys, Clearwater, for Appellants.

Michael J. Cooper, of Michael J. Cooper,  
P.A., Ocala, for Appellee, Michael Young.

No Appearance for Appellee, Marion  
County Board of Commissioners.

PER CURIAM.

Benjamin Chancey and Angelia Chancey appeal a final judgment of foreclosure entered in favor of Michael Young. They contend the trial court erred by conducting the trial before the case was at issue. We agree and reverse the judgment.

An action is considered at issue “after any motions directed to the last pleading served have been disposed of or, if no such motions are served, 20 days after service of the last pleading.” Fla. R. Civ. P. 1.440(a). Once the case is at issue, a party may file and serve a notice that the case is ready to be set for trial. Fla. R. Civ. P. 1.440(b). Thereafter, if the trial court determines that the action is ready for trial, the trial court is to enter an order fixing a date for trial no less than 30 days from the service of the notice. Fla. R. Civ. P. 1.440(c).

Here, the last pleading was a reply to the Chanceys’ affirmative defenses filed on January 6, 2020. On January 22, 2020, the Chanceys filed a motion to strike Young’s reply. Although the motion to strike was not ruled on until February 7, 2020, over the Chanceys’ objection, the trial court conducted the trial on February 11, 2020, which only Young, and not the trial court, had noticed.

Strict compliance with Florida Rule of Civil Procedure 1.440 is mandatory, and the failure to follow it is reversible error. Melbourne HMA, LLC v. Schoof, 190 So. 3d 169, 170 (Fla. 5th DCA 2016). “Indeed, a trial court’s obligation to hew strictly to the rule’s terms is so well established that it may be enforced by a writ of mandamus compelling the court to strike a noncompliant notice for trial or to remove a case from the trial docket.” Gawker Media, LLC v. Bollea, 170 So. 3d 125, 130 (Fla. 2d DCA 2015).

Because this matter was tried prematurely and was not properly noticed for trial, we reverse the final judgment.

REVERSED AND REMANDED.

ORFINGER, COHEN and TRAVER, JJ., concur.