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

AJAY KUMAR DODDAPANENI,

Appellant,

v. Case No. 5D20-1735

CANDACE ELAINE DODDAPANENI,

Appellee.

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Opinion filed May 7, 2021

Nonfinal Appeal from the Circuit Court for Seminole County, Melissa Souto, Judge.

Jonathan Craig Bourne, of J. Craig Bourne, Orlando, for Appellant.

M. Shannon McLin and Melissa Alagna, of Florida Appeals, Orlando, for Appellee.

SASSO, J.

Ajay Kumar Doddapaneni ("Husband") appeals the nonfinal order entered following a review hearing on Candace Elaine Doddapaneni's

("Wife") Verified Emergency Motion Without Notice to Freeze Marital Accounts. Because the trial court granted injunctive relief that was neither requested in Wife's pleadings nor tried by consent, we reverse the order on appeal.

Wife filed a Petition for Dissolution of Marriage on June 8, 2020. Contemporaneously, Wife filed a Verified Emergency Motion without Notice to Freeze Marital Accounts, alleging that Husband had transferred large amounts of cash from at least one joint checking account and closed others. Wife feared Husband was attempting to dissipate and transfer marital assets without Wife's knowledge or consent. Wife's motion requested that Husband be prohibited from accessing or withdrawing funds from three accounts that were currently held only in Husband's name, for Husband to provide an immediate accounting of all significant funds, attorney's fees related to the motion, and "other and further relief as the Court deems appropriate."

That same day, the trial court granted Wife's motion and ordered Husband be "immediately restrained from accessing or withdrawing funds from [three accounts] until further order of the court or agreement of the parties." The trial court also set a review hearing.

At the review hearing, both Husband and Wife presented testimony as to whether Husband did anything that would justify freezing the accounts. In

closing, for the first time, Wife requested that the trial court either place Wife in control of the assets, or, alternatively, place both Husband and Wife in control of the assets. Specifically, Wife requested the trial court enter an order adding her name to every account.

In response, Husband immediately replied that "we're here on a motion to freeze accounts" and stated that "there's no other issues that we're consenting to being addressed today other than whether or not these accounts should be frozen." Husband then alternatively argued that, pursuant to an antenuptial agreement,[1] there is a question as to whether the accounts over which Wife sought control were marital property. Nonetheless, Husband reiterated that whether the accounts are martial property was "not an issue before the court today."

Following argument, the trial court noted that Wife's motion requested the court grant such other and further relief as the court deems appropriate. Relying on that request, the trial court entered an order on Wife's emergency motion, stating: "The Court does not believe that if the accounts are unfrozen, the Husband will provide money for the Wife." The trial court ordered the accounts unfrozen but to be in both parties' names.

[1] Considering our holding, we do not reach the issue of whether the trial court erred in failing to admit the antenuptial agreement into evidence.

Because the order on appeal grants temporary injunctive relief, we review the order for an abuse of discretion. *See Neal v. Neal*, 636 So. 2d 810, 813 (Fla. 1st DCA 1994) ("As with rulings on pleadings, an appellate court's review of an order issued upon application for, or removal of, an injunction will consider whether the trial court abused its discretion in the grant or denial of the request.").

On appeal, Husband argues the trial court improperly granted relief not requested by Wife when it ordered Husband's individual bank accounts to be placed in both parties' names. We agree.

Courts generally are unauthorized to award relief not requested in the parties' pleadings. *See Nabinger v. Nabinger*, 82 So. 3d 1075, 1076 (Fla. 1st DCA 2011). And here, Wife's request that her name be added to certain accounts was not requested in her motion.[2] Furthermore, the generic request included in Wife's prayer for relief is insufficient to cure Wife's failure to plead the issue. *See, e.g.*, *Gear v. Gear*, 205 So. 3d 835, 836 (Fla. 2d DCA 2016) ("The generic, boilerplate language in the prayer for relief in the former wife's motion does not provide the necessary request for relief or cure the lack of

[2] Although Wife represents on appeal that her motion included a request to have the accounts placed in her name only, a thorough review of the motion included in the appendix does not demonstrate that representation to be accurate.

notice."); *BAC Homes Loans Servicing, Inc. v. Headley*, 130 So. 3d 703, 706 (Fla. 3d DCA 2013) (concluding that requests for "such other relief as the court deems just and proper under the circumstances" in the "wherefore" clauses of counterclaims were insufficient to afford meaningful notice of issue not specifically pleaded).

Because Wife did not request the relief granted by the trial court, the issue was only properly before the trial court if tried by consent. *See* Fla. Fam. L. R. P. 12.190(a) ("When issues not raised by the pleadings are tried by express or implied consent, they will be treated in all respects as if they had been raised in the pleadings."). However, "implied consent does not exist when the opposing party objects to the argument or the introduction of evidence." *Byers v. Callahan*, 848 So. 2d 1180, 1184 (Fla. 2d DCA 2003) (citing *Flemming v. Flemming*, 742 So. 2d 843, 844 (Fla. 1st DCA 1999) ("The issue of rotating custody was not tried by implied consent because Former Wife raised a proper objection.")); *Todaro v. Todaro*, 704 So. 2d 138, 139 (Fla. 4th DCA 1997) ("[I]t cannot be said that this issue was tried by implied consent where Former Wife objected to the trial court hearing

evidence on matters that were not properly pled."); *Hemraj v. Hemraj*, 620 So. 2d 1300, 1301 (Fla. 4th DCA 1993)).[3]

Here, contrary to Wife's characterization, Husband opened his closing argument by stating that the issue before the trial court was solely whether to freeze the accounts, and he expressly stated that they were not consenting to any other issues being addressed. Accordingly, the issue was not tried by consent nor requested in the pleadings, and the trial court abused its discretion in granting the requested relief. *See Gear*, 205 So. 3d at 836.

Because the trial court erred by exceeding the scope of Wife's requested relief, we reverse the order on appeal and remand for additional proceedings. We find this issue dispositive and therefore do not address the remainder of Husband's arguments.

REVERSED and REMANDED.

COHEN and TRAVER, JJ., concur.

[3] Although rule 12.190 permits parties to move to amend their pleadings to conform to evidence admitted, Wife made no such request. *See Wells Fargo Bank, N.A. v. Gonzalez*, 186 So. 3d 1092, 1098 (Fla. 4th DCA 2016) (holding pleadings could not be conformed to the evidence where mortgagors never moved to amend their pleadings and mortgagee never had an opportunity to demonstrate whether or not it would be prejudiced in maintaining an action on the merits).