

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TERRAPIN PENSACOLA LLC,
MEL PENSACOLA LLC,
MAVEN PENSACOLA LLC,
YOHAI PENSACOLA LLC,
WEISS PENSACOLA LLC,

Appellants,

v.

WEST FLORIDA VILLAGE
INN, INC. and REBECCA
CELANO,

Appellees.

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

CASE NO. 1D04-3335

Opinion filed April 29, 2005.

An appeal from the Circuit Court for Escambia County.
Terry D. Terrell, Judge.

John B. Trawick of Shell, Fleming, Davis & Menge, Pensacola, for Appellants.

Robert O. Beasley of Litvak, Beasley & Wilson, LLP, Pensacola, for Appellees.

PER CURIAM.

Appellants, who alleged below that appellees fraudulently and negligently misrepresented information that would have been material to appellants' decision to

purchase a hotel from appellees, seek review of the trial court's grant of appellees' motion for judgment on the pleadings. The trial court's grant of judgment on the pleadings rested on its conclusion that the subject sale was of only real property in the form of land, hotel and fixtures. Because the record does not support a conclusion as a matter of law that the subject sale did not in any way involve the business stream of the hotel being purchased, judgment on the pleadings was improper on these facts. See New York State Dep't of Taxation & Fin. v. Klein, 852 So. 2d 866, 867 (Fla. 4th DCA 2003). Accordingly, we reverse and remand for further proceedings.

WOLF, C.J., DAVIS and BROWNING, JJ., CONCUR.