

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

JEANNE CHITTY CAMPBELL,  
Individually, As Trustee of the  
Jeannette Z. Chitty Revocable Trust,  
As Trustee U/W Henry M. Chitty,  
Jr., and As Trustee U/W Louise S.  
Zetrouer, Chitty-Alachua, a Florida  
Limited Liability Company,  
Stardust Angus Ranch, LLC, a  
Florida Limited Liability Company,  
Stardust Angus Ranch, Ltd., a  
Florida Limited Partnership,  
Stardust Angus Ranch, Inc., a  
Florida Corporation, Chitty-Marion,  
LLC, a Florida Limited Liability  
Company, and Chad E. Campbell,  
Individually,

Appellants,

v.

HENRY M. CHITTY, I I I,

Appellee.

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Opinion filed August 23, 2012.

An appeal from an order of the Circuit Court for Alachua County.  
Stanley H. Griffis, I I I, Judge.

John S. Mills and JoLen Rawls Wolf of The Mills Firm, P.A., Tallahassee, for  
Appellants.

Guy W. Norris of Norris & Norris, P.A., Lake City, for Appellee.

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

CASE NO. 1D12-0861

PER CURIAM.

Upon consideration of appellant's motion for review filed on March 16, 2012, the trial court's March 2, 2012, order denying a stay is affirmed. The temporary stay previously granted by this court on February 21, 2012, is hereby lifted.

CLARK and SWANSON, JJ., CONCUR; THOMAS, J., DISSENTING WITH OPINION.

THOMAS, J., DISSENTING.

I would grant the motion for review and reverse the lower tribunal's March 2, 2012, order denying a stay. The lower tribunal's order, which adopted its prior interim order, requires, *inter alia*, that the real property held by the trust be liquidated in its entirety. The appellant argues that this order is inconsistent with the provisions of the trust, requiring distributions of some of the real property to Petitioner and Respondent, respectively.

A stay is appropriate when a party has demonstrated a likelihood of success on the merits, and a likelihood of harm to that party absent the entry of a stay. See Perez v. Perez, 769 So. 2d 389 n.4 (Fla. 3d DCA 1999). Here, the movant has established a likelihood of success on the merits. Particularly concerning is the trial court's order as it relates to the real property located in Marion County. As the appellant argues, it would appear that the lower tribunal's order is inconsistent with Article 16 of the Trust, which provides that "[i]f it is possible to do so without overfunding JEANNE CHITTY CAMPBELL'S one half interest in this Trust Estate, I direct that the Trustee fund her devise with real property situated in Marion County, Florida." If the real property is liquidated prior to the outcome of this appeal, irreparable harm will result to the appellant.

I therefore respectfully dissent.

