

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

AMERICAN COASTAL INSURANCE COMPANY,
Appellant,

v.

QUADOMAIN CONDOMINIUM II ASSOCIATION, INC.,
Appellee.

No. 4D19-1316

[February 26, 2020]

Appeal of a nonfinal order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael A. Robinson, Judge; L.T. Case No. 18-012929 CACE (13).

Patrick E. Betar, William S. Berk, Melissa M. Sims and Steven J. Getman of Berk, Merchant & Sims, PLC, Coral Gables, for appellant.

Anthony M. Lopez of Marin, Eljaiek, Lopez & Martinez, P.L., Coconut Grove, for appellee.

PER CURIAM.

American Coastal Insurance Company (“Insurer”) appeals the trial court’s nonfinal order granting Quadomain Condominium II Association, Inc.’s (“Insured”) motion to compel appraisal of a claim under a property insurance policy. Despite the Insurer’s contention that the Insured had not complied with its post-loss obligations, the trial court granted the motion to compel appraisal without conducting an evidentiary hearing. We reverse.

“[W]here the ‘insured cooperates to some degree or provides an explanation for its noncompliance, a fact question is presented’ regarding the necessity or sufficiency of compliance.” *Sunshine State Ins. Co. v. Corridori*, 28 So. 3d 129, 131 (Fla. 4th DCA 2010) (quoting *Haiman v. Fed. Ins. Co.*, 798 So. 2d 811, 812 (Fla. 4th DCA 2001)). “When a factual dispute exists as to whether a party requesting an appraisal complied with its post-loss obligations, the trial court must hold an evidentiary hearing to determine the issue of such compliance.” *First Protective Ins. Co. v. Ahern*, 278 So. 3d 87, 89 (Fla. 4th DCA 2019); *see also United Prop. & Cas.*

Ins. Co. v. Concepcion, 83 So. 3d 908, 910 (Fla. 3d DCA 2012) (“Where the insurer reasonably disputes such compliance and raises a question as to the sufficiency of the insured’s compliance with post-loss obligations, a question of fact is created that must be resolved by the trial court before compelling appraisal.”).

We reverse the trial court’s order compelling appraisal and remand for an evidentiary hearing.

Reversed and remanded.

LEVINE, C.J., GROSS and CIKLIN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.