

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

PEOPLE'S TRUST INSURANCE COMPANY,
Appellant,

v.

MAXINE SPALDING,
Appellee.

No. 4D21-1564

[November 3, 2021]

Appeal of nonfinal order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; John B. Bowman, Judge; L.T. Case No. CACE20-009898.

Mark D. Tinker and Mary Lou Cuellar-Stilo of Cole, Scott & Kissane, P.A., Tampa, and Brett Frankel and Jonathan Sabghir of People's Trust Insurance Company, Deerfield Beach, for appellant.

Steven E. Gurian of Marin, Eljaiek, Lopez, & Martinez, P.L., Coconut Grove, for appellee.

CONFESSION OF ERROR

PER CURIAM.

We accept Appellee's confession of error. The circuit court erred in concluding that the Appellant waived its right to appraisal under the policy. The insurer's suit sought to enforce the provisions of the policy, including the appraisal provision. The insurer never took any action inconsistent with the right to appraisal. *See Fla. Ins. Guar. Ass'n v. Branco*, 148 So. 3d 488, 493 (Fla. 5th DCA 2014) (recognizing that the primary focus when determining whether the right to appraisal has been waived is whether the party "acted inconsistently with their appraisal rights"). The circuit court's April 8, 2021 order is reversed, and this matter is remanded for further proceedings.

Reversed and remanded.

LEVINE, FORST, and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.