

Third District Court of Appeal

State of Florida

Opinion filed November 14, 2018.
Not final until disposition of timely filed motion for rehearing.

Nos. 3D16-925 & 3D16-806
Lower Tribunal No. 14-445

City of Miami and Miami Parking Authority,
Appellants,

vs.

Orlando Jarel Puerto Peralta,
Appellee.

Appeals from a non-final order from the Circuit Court for Miami-Dade County, Gisela Cardonne Ely, Judge.

Victoria Méndez, City Attorney, and John A. Greco, Deputy City Attorney, and Richard S. Otruba, Assistant City Attorney; Johnson, Anselmo, Murdoch, Burke, Piper & Hochman, P.A., and Michael R. Piper and Christopher J. Stearns (Fort Lauderdale), for appellants.

Alayon & Associates, P.A., and Richard Alayon and Alexis Hernandez; ADR Miami LLC, and Juan Ramirez, Jr., for appellee.

Before SALTER, EMAS and FERNANDEZ, JJ.

FERNANDEZ, J.

The City of Miami and Miami Parking Authority appeal the trial court's non-final order denying their motions to dismiss Orlando Jarel Puerto Peralta's

complaint on the grounds of sovereign immunity. Because the trial court did not determine whether the City of Miami was entitled to, or not entitled to, sovereign immunity as a matter of law, and in fact ruled without prejudice to the City raising the application of sovereign immunity in further proceedings, we dismiss the appeal as one taken from a non-final, non-appealable order pursuant to Florida Rule of Appellate Procedure 9.130(a)(3)(C)(xi). See Key v. Almase, 43 Fla. L. Weekly D1804 (Fla. 3d DCA Aug. 8, 2018) (“Because the order does not make any findings regarding the issue of immunity, we dismiss the appeals as taken from a non-final, non-appealable order.”); Miami-Dade Cty. v. Pozos, 242 So. 3d 1152, 1157 (Fla. 3d DCA 2017) (“This court does not have the authority to *determine in the first instance* whether, as a matter of law, the County is entitled to sovereign immunity.”); Citizens Prop. Ins. Corp. v. Sosa, 215 So. 3d 90, 91 (Fla. 3d DCA 2016) (“[T]he trial court's order fails to state that, as a matter of law, sovereign immunity is not available to Citizens. As such, the trial court's order is not appealable pursuant to Rule 9.130(a)(3)(C)(xi).”).

Dismissed.