

Third District Court of Appeal

State of Florida

Opinion filed June 26, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-0146
Lower Tribunal No. 17-23427

Antonio M. Hernandez, Jr.,
Appellant,

vs.

Eusebio G. Hernandez and Elena Hernandez-Kucey,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Rodolfo A. Ruiz,
Judge.

Laura Bourne Burkhalter, P.A., and Laura Bourne Burkhalter (Fort
Lauderdale), for appellant.

Sloto & Diamond, PLLC, and Seth S. Diamond, and James R. Sloto, for
appellee Eusebio G. Hernandez.

Before SALTER, FERNANDEZ, and LINDSEY, JJ.

PER CURIAM.

Appellant Antonio Hernandez, Jr. appeals a final summary judgment denying his complaint for partition of real property. A plaintiff to a partition action must have an interest in the real property sought to be divided. See § 64.031, Fla. Stat. (2018) (“The action may be filed by any one or more of several joint tenants, tenants in common, or coparceners, against their cotenants, coparceners, or others interested in the lands to be divided.”). Here, Appellant failed to establish he has an interest in the property sought to be partitioned.

Further, “[a] ward’s death does not prevent a trial court from enforcing orders previously entered in the guardianship case. Midland Nat’l Bank & Trust v. Comerica Trust Co. of Fla., N.A., 616 So. 2d 1081 (Fla. 4th DCA 1993) (holding that viability of otherwise valid orders not dependent on whether ward is alive; sanctity of court orders deserves better than to be *ipso facto* rendered nullity by ward’s death).” Sowden v. Brea, 47 So. 3d 341 (Fla. 5th DCA 2010).

Affirmed.