

Third District Court of Appeal

State of Florida

Opinion filed November 6, 2019.

No. 3D19-514
Lower Tribunal No. 18-41933

Robert Wohlfeld and Leydi Wohlfeld,
Appellants,

vs.

Portofino Towers Condominium Association, Inc.,
Appellee.

An Appeal from non-final orders from the Circuit Court for Miami-Dade County, Martin Zilber, Judge.

Thomas Butler, P.A., and Thomas J. Butler; David S. Molansky, for appellants.

Nelson Mullins Broad and Cassel, and Beverly A. Pohl (Fort Lauderdale); The Lehman Law Firm, PLLC, and Gary E. Lehman, for appellee.

Before EMAS, C.J., and FERNANDEZ and LOGUE, JJ.

EMAS, C.J.

ON CONFESSION OF ERROR

Robert and Leydi Wohlfeld appeal from trial court orders rendered on February 11 and 28, 2019. These two orders, which granted temporary injunctive relief,¹ were entered by the trial court without proper notice (for at least one of the hearings), without an evidentiary hearing, and without requisite findings of fact.

Appellee, Portofino Towers Condominium Association, has confessed error and concedes that it is improper to order temporary injunctive relief without complying with these requirements. See e.g., Fla. R. Civ. P. 1.610(c); City of Miami v. Santos, 44 Fla. L. Weekly D2136 at *1 (Fla. 3d DCA Aug. 21, 2019) (observing that “[b]ecause temporary injunctions are extraordinary remedies, strict requirements govern their issuance” and reversing temporary injunction where there was inadequate notice and the trial court’s order lacked the required findings of facts and statement of legal reasons); Bull Motors, LLC v. Brown, 152 So. 3d 32 (Fla. 3d DCA 2014) (holding trial court’s failure to conduct evidentiary hearing prior to entering injunction violated due process); Chevaldina v. R.K./FL Mgmt., Inc., 133

¹ Appellee filed a motion to dismiss this appeal, contending that the orders at issue are not in the nature of injunctions, but instead are in the nature of nonappealable case management orders, citing Clevens v. Omni Healthcare, Inc., 83 So. 3d 1011 (Fla. 5th DCA 2012). We denied appellee’s motion to dismiss, and we treat this as an appeal of non-final orders under Florida Rule of Appellate Procedure 9.130(a)(3)(B) (nonfinal orders that “grant, continue, modify, deny, or dissolve injunctions”)

So. 3d 1086 (Fla. 3d DCA 2014) (reversing injunction order because, inter alia, trial court failed to make factual findings).

We therefore reverse the orders on appeal and remand for further proceedings consistent with this opinion.²

² Because we reverse on this basis, we need not and therefore do not reach the merits of the Wohlfelds' argument that the injunction order violated their right to free speech under Florida and Federal law.