

Third District Court of Appeal

State of Florida

Opinion filed July 24, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-627
Lower Tribunal No. 18-25371

Marglli Gallego,
Petitioner,

vs.

Wells Fargo Bank, N.A.,
Respondent.

On Petition for Writ of Certiorari from the Circuit Court for Miami-Dade County, Pedro P. Echarte, Jr., Judge.

Alfaro & Fernandez, P.A., and Elbert Alfaro, for petitioner.

Fox Rothschild, LLP, and Amy S. Rubin (West Palm Beach) and Seth B. Burack (West Palm Beach), for respondent.

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

PER CURIAM.

We treat Marglli Gallego’s appeal as a petition for writ of certiorari, see Fla. R. App. P. 9.040(c); Diamond v. Elvis Towing, Inc., 268 So. 3d 249 (Fla. 2d DCA 2019) (Fla. 2d DCA 2019), and deny the petition. See Steiner Transocean Ltd. v. Efremova, 109 So. 3d 871, 873 (Fla. 3d DCA 2013) (holding: “As a general rule, when considering a motion to dismiss, a trial court is limited to the allegations within the four corners of the complaint and any attachments. However, there are several exceptions to this general rule. For example, a court is permitted to consider evidence outside the four corners of the complaint where the motion to dismiss challenges subject matter jurisdiction . . .”) (footnotes omitted); Seminole Tribe of Fla. v. McCor, 903 So. 2d 353, 357 (Fla. 2d DCA 2005) (holding: “In considering a motion to dismiss challenging subject matter jurisdiction, a trial court may properly go beyond the four corners of the complaint”); see also Davis v. Bay Cty. Jail, 155 So. 3d 1173, 1177 (Fla. 1st DCA 2014) (Makar, J., concurring in part and dissenting in part) (noting: “If legal conclusions are alleged [in a complaint], they are *not* deemed true for purposes of a motion to dismiss”) (citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Papasan v. Allain, 478 U.S. 265, 286 (1986); and Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007)); W.R. Townsend Contracting, Inc. v. Jensen Civil Constr., Inc., 728 So. 2d 297, 300 (noting that a trial court “must liberally construe, and accept as true, factual allegations in complaint and reasonably deductible inferences therefrom, but need not accept internally inconsistent factual

claims, conclusory allegations, unwarranted deductions, or mere legal conclusions made by a party”) (citing Response Oncology, Inc. v. Metrahealth Ins. Co., 978 F. Supp. 1052, 1058 (S.D. Fla. 1997)).