

Third District Court of Appeal

State of Florida

Opinion filed December 4, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1099
Lower Tribunal No. 18-29179

Bluebone Development, LLC,
Appellant,

vs.

Malibu Bay Community Association, Inc.,
Appellee.

An Appeal from non-final orders from the Circuit Court for Miami-Dade County, Jacqueline Hogan Scola, Judge.

Darius Asly, Limited Attorney, for appellant.

The Meloni Law Firm, and Edo Meloni, for appellee.

Before FERNANDEZ, HENDON and GORDO, JJ.

PER CURIAM.

Bluebone Development, LLC appeals the trial court's order denying its motion to cancel sale and motion to quash service of process in this foreclosure case. Following the final judgment of foreclosure of its condominium unit, Bluebone filed a motion to cancel sale and noticed it for a hearing on the court's five-minute motion calendar. Bluebone simultaneously filed a verified motion to quash service of process but did not set it for a hearing. At the hearing on the motion to cancel sale, the trial court denied both the motion to cancel sale and the motion to quash service of process, impermissibly expanding the scope of the hearing over Bluebone's objection. Bluebone argued the motion to quash service of process was not noticed and requested an opportunity to present evidence at an evidentiary hearing. On appeal, Bluebone argues the trial court violated its due process rights by expanding the scope of the hearing without notice and ruling on the motion to quash service of process. We agree. "It is well established that 'the granting of relief, which is not sought by the notice of hearing or which expands the scope of a hearing and decides matters not noticed for hearing, violates due process.'" Miami-Dade Cty. Bd. of Cty. Comm'rs v. An Accountable Miami-Dade, 208 So. 3d 724, 734 (Fla. 3d DCA 2016) (quoting Celebrity Cruises, Inc. v. Fernandes, 149 So. 3d 744, 750 (Fla. 3d DCA 2014)).

Reversed and remanded.