

Third District Court of Appeal

State of Florida

Opinion filed February 5, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1263
Lower Tribunal No. 18-37088

City of Miami Gardens,
Appellant,

vs.

US Bank National Association, et al.,
Appellees.

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, William Thomas, Judge.

Michele Samaroo, Assistant City Attorney, for appellant.

Michael Farrar, for appellee Asset Recovery Inc.

Before LOGUE, SCALES, and GORDO, JJ.

LOGUE, J.

The City of Miami Gardens appeals the trial court's order disbursing excess proceeds based upon a finding that the City failed to establish that six code

enforcement orders qualified as recorded certified copies. Because we agree with the City that the electronic copies of the certified enforcement orders at issue qualify as certified copies, we reverse.

Background

The underlying lawsuit is a case to quiet title of a property located at 18907 NW 46th Avenue in Miami Gardens, Florida. It was filed by the purchaser of the property at a tax deed sale. This interlocutory appeal concerns the priority among lienors for the excess proceeds from the sale. The excess proceeds were claimed by the City, based upon six code enforcements orders it had filed in the public record; by Appellee Asset Recovery Inc. based upon an assignment of the former owner's rights; and by U.S. Bank N.A., as trustee for the Holders of the J.P. Morgan Mortgage Acquisition Trust 2006-CWI, based upon its mortgagee. Appellee and U.S. Bank reached an agreement regarding the distribution of the proceeds in the event the City's claims for priority fail.

The City filed a motion to disburse the excess proceeds which was denied by the trial court on the basis that the City's code enforcement orders did not constitute liens of record for reasons we will discuss below. U.S. Bank then filed its own motion to disburse arguing that because the City's motion had been denied for failure to demonstrate that the orders constituted liens of record, the City had no

claims to the excess proceeds. The trial court granted U.S. Bank's motion and ordered that the excess funds be disbursed to U.S. Bank. This appeal followed.

Standard of Review

Given that the issue of whether the City's orders comply with section 162.09(3), Florida Statutes, is a pure legal question, we review the trial court's ruling de novo. Armstrong v. Harris, 773 So. 2d 7, 11 (Fla. 2000) (“[T]he standard of review for a pure question of law is de novo.”).

Analysis

We have jurisdiction over the non-final order at issue pursuant to Florida Rule of Appellate Procedure 9.130(a)(3)(c)(ii), which governs determinations of “the right to immediate possession of property.”

The primary dispute in this appeal is whether the City's electronically filed code enforcement orders constitute “certified copies.” Section 162.09(3) provides in pertinent part:

A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.

(Emphasis added).

In this case, the trial court ruled that the orders did not constitute proper liens because they did not contain the words “certified copies.” There is no dispute that the orders at issue were recorded in the public records. Also, there is no contention

that the orders are incorrect, inaccurate, or incomplete. Moreover, the orders were clearly certified: the orders bear the signature of the City's special master who entered the orders, a notarization of his signature, the seal of the City, and the signature of the Clerk of the City. In the age of electronic filings, we believe such certified orders, transmitted electronically by the government that generated and certified the orders to the County Clerk for filing in the Public Records, constitute recorded certified copies pursuant to section 162.09(3).

Reversed and remanded.