

Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed December 21, 2011.
Not final until disposition of timely filed motion for rehearing.

No. 3D11-1171
Lower Tribunal No. 09-18781

Coconut Grove Station Development, Ltd.,
Appellant,

vs.

Miami-Dade County,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Lester Langer,
Judge.

Crabtree & Associates, P.A., and John G. Crabtree and George R. Baise, Jr.;
and W. Stephen Lorenzo, for appellant.

R.A. Cuevas, Jr., Miami-Dade County Attorney, and Jason Bloch, Assistant
County Attorney, for appellee.

Before WELLS, C.J., and CORTIÑAS and ROTHENBERG, JJ.

PER CURIAM.

Coconut Grove Station Development, Ltd. (“the tenant”) appeals a final judgment following the trial court’s rulings on competing motions for partial summary judgment as to the tenant’s claims against Miami-Dade County (“the County”), and the County’s counterclaim, in which the trial court ruled in favor of the County. The County’s motion for summary judgment as to the lease contract and its arguments before the trial court were premised on the County’s contention that it had satisfied its obligations under the lease by providing the seventeen-year-old plat. Because the trial court granted summary judgment as to the lease contract on this argument and the record does not support such a finding, we reverse the final judgment on that basis. Although we reverse the final judgment entered in the County’s favor, we do not disturb the trial court’s findings as it relates to the “Best Efforts” contract.¹

CORTIÑAS and ROTHENBERG, JJ., concur.

¹ Because the County did not argue or rely on its statute of limitations affirmative defense in obtaining summary judgment as to the lease contract, that issue is not properly before us and cannot serve as grounds to affirm the order under review.

WELLS, C.J., (dissenting).

I respectfully dissent. I would affirm the dismissal of the tenant's contract claims under the applicable statute of limitations. See § 95.11(2)(b), Fla. Stat. (2009) (providing a five year limitations period for claims based on a contract); Dade Cnty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 645 (Fla. 1999) (recognizing that because the appellate court, "in considering whether to uphold or overturn a lower court's judgment, is not limited to consideration of the reasons given by the trial court," it also "stands to reason that the appellee can present any argument supported by the record even if not expressly asserted in the lower court").