

QUIZ ON RECENT REAL PROPERTY CASES

SELECTED RECENT REAL PROPERTY CASES

(From Fund Concept issues from January 2024 through February 2025)

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I. Appeals

- a. ***Valdes v. City of Marathon*, 394 So.3d 135 (Fla. 3rd DCA).** The resident is not entitled to second-tier appellate review after an appeal is heard by the circuit court.

II. Bankruptcy

- a. ***In re Platt*, 656 B.R. 469 (Bankr. S.D. Fla. 2023).** The state court must make a final determination on spousal interests in entireties property prior to the bankruptcy court's potential sale.
- b. ***In re Peterson*, 657 B.R. 271 (Bankr. M.D. Fla. 2024).** Purchaser's claim for specific performance was subject to discharge in seller's bankruptcy case.
- c. ***In re Carvajal*, 657 B.R. 501 (Bankr. S.D. Fla. 2024).** Debtor cannot claim Florida homestead in property owned by corporation.
- d. ***In re Powell*, 119 F.4th 597 (9th Cir. 2024).** Debtor has absolute right to dismiss Chapter 13 bankruptcy case.

III. Community Associations

- a. ***Palanchian v. Windstone Property Owners' Association*, 384 So.3d 200 (Fla. 4th DCA 2024).** A settlement agreement between the bank and the water management district does not bind the property owners' association.
- b. ***Green Terrace E33, LLC v. Joseph Abruzzo, as Clerk and Comptroller for Palm Beach County*, 383 So.3d 106, (Fla. 4th DCA 2024).** Municipal code enforcement lien against condominium common elements is not lien "against the property" or individual condominium units.

IV. Contracts

- a. ***Mercado v. Sridhar*, 389 So.3d 625 (Fla. 3d DCA 2023).** Attaching an addendum to an agreement without specifically incorporating it fails to make the addendum an essential part of the agreement.
- b. ***Palm Beach Polo Holdings, Inc. v. Ethrensa Family Trust Company*, 375 So.3d 914 (Fla. 4th DCA 2023).** Contract provisions giving the seller a right to repurchase lot below market value encouraged development and enhanced marketability and were not unreasonable restraints on alienation.
- c. ***North Florida Mango v. LLS Holdings*, 375 So.3d 906 (Fla. 4th DCA 2023).** Summary judgment is not appropriate when material terms of the contract are in dispute.
- d. ***Mowder v. Smith*, 390 So.3d 106 (Fla. 3d DCA 2024).** The performance of an oral agreement removes it from the statute of frauds.
- e. ***Yatak & 52 SW 5th Court Warehouse, LLC v. La Placita Grocery*, 383 So.3d 497 (Fla. 4th DCA 2023).** A written agreement with a merger clause negates prior oral statements.
- f. ***Dozier v. Scruggs*, 380 So.3d 505 (Fla. 5th DCA 2024).** Florida courts highly favor the enforceability of mediated settlement agreements.
- g. ***Stav Software, LLC v. Lederman Investments, LLC*, 394 So.3d 1217 (Fla. 3d DCA 2024).** Entitlement to specific performance against a third-party purchaser depends on the validity of the underlying contract.
- h. ***Buyer's Choice Auto Sales, LLC v. Palm Beach Motors, LLC*, 391 So.3d 463 (Fla. 4th DCA 2024).** Fraudulent inducement renders a contract voidable, not void.

V. Construction liens

- a. ***Jon M. Hall Company, LLC v. Canoe Creek Investments, LLC*, 386 So.3d 648 (Fla. 2d DCA 2024).** A timely filed notice of contest shortens the time period needed to make a claim against surety to enforce a construction lien.

VI. Deeds

- a. ***Fuentes v. Link*, 394 So.3d 684 (Fla. 3d DCA 2024).** Conveyance documents may be effective even when not formally titled “deed.”

- b. ***Leitner v. Leitner*, 391 So.3d 1023 (Fla. 5th DCA 2024).** Presumption of Undue Influence arises when the beneficiary to deed is active in procuring the deed.

VII. Easements

- a. ***Diggs v. Cushman*, 372 So.3d 1290 (Fla. 1st DCA 2023).** “Access and utility easement” is not limited to easement authorizing utility access.
- b. ***PAJ Investment Group, LLC v. El Lago N.W. 7th Condominium Association, Inc.*, 49 Fla.L.Weekly D2081 (Fla. 3rd DCA 2024).** The holder of an easement must own the dominant estate to establish an appurtenant easement.

VIII. Foreclosure

- a. ***U.S. Bancorp v. Taharra Assets 5545, Inc.*, 378 So. 3d 630 (Fla. 4th DCA 2024).** Company remains an indispensable party in a foreclosure suit following the transfer of property to a successor company.
- b. ***Desbrunes v. US Bank*, 385 So.3d 158 (Fla. 4th DCA 2024).** Appointment of personal representative for deceased borrower not required in foreclosure proceedings involving homestead property.
- c. ***U.S. Bank Trust, N.A. as trustee of LSF9 Master Participation Trust v. Rodriguez*, 397 So.3d 1141 (Fla. 2nd DCA 2024).** Lost notes may be reestablished through a three-pronged analysis.

IX. Government Action

- a. ***City of Titusville v. Speak Up Titusville, Inc.*, 50 Fla. L. Weekly D65 (Fla. 5th DCA 2024).** Municipal charter amendment providing for “right to clean water” was preempted by state statute.

X. Injunctions

- a. ***Wayne’s Aggregate and Materials, LLC v. Lopez*, 391 So.3d 633 (Fla. 5th DCA 2024).** Temporary injunction defective due to failure to adhere to the rule of civil procedure.

XI. Landlord-Tenant

- a. ***Ottone v. Williamson Investments*, 373 So.3d 686 (Fla. 2d DCA 2023).** Mobile home tenant and adult daughter’s actions were deemed a threat to welfare and peaceful enjoyment, and eviction was the proper remedy.

- b. ***Stoppa v. Infinity the Oaks, LLC*, 389 So.3d 682 (Fla. 3rd DCA 2024).** Erroneous rule citation by the trial court does not invalidate the ruling.
- c. ***Patrick Fabre v. 4647 Block, LLC*, 49 Fla. L. Weekly D1914 (Fla. 3rd DCA 2024).** Commercial landlord is entitled to default judgment of possession when tenant fails to deposit rent in court in a timely manner.
- d. ***KAC 2012-1, LLC v. American Homes 4 Rent Properties One, LLC*, 398 So.3d 1033 (Fla. 2nd DCA 2024).** Tenant is not entitled to damages for landlord's posting of the statutorily required three-day notice.

XII. Land Use

- a. ***Sheetz v. County of El Dorado, California*, 601 US 267 (2024).** The Fifth Amendment's takings clause applies equally to legislative and administrative land-use permits.
- b. ***DeVillier v. Texas*, 601 U.S. 285 (2024).** A cause of action against the state exists under the takings clause of the Fifth Amendment in conjunction with proper causes of action under state law.
- c. ***Lozman v. City of Riviera Beach, Florida*, 119 F.4th 913 (11th Cir. 2024).** Final written denial of application for permit must occur to render takings.

XIII. Lis Pendens

- a. ***Weiss v. BI 27, LLC*, 48 Fla. L. Weekly D1991 (Fla. 3d DCA 2023). Withdrawn and Superseded on Denial of Rehearing by *Weiss v. BI 27, LLC*, Fla.App. 3 Dist., December 13, 2023.** When action is founded upon a duly recorded instrument, lis pendens is maintained as a matter of right.
- b. ***Hutchins v. SCT Trading, LLC*, 392 So.3d 246 (Fla. 2nd DCA 2024).** Bond on lis pendens not set without proper requests.

XIV. Taxes

- a. ***Ramle International Corp. v. Miami-Dade County*, 388 So.3d 126 (Fla. 3d DCA 2023).** Prior ownership alone is insufficient to establish the right to surplus proceeds from a tax deed sale.
- b. ***Errol Rainess v. Jose Perez 1031 4, LLC*, 49 Fla. L. Weekly D1042 (Fla. 3rd DCA 2024). Withdrawn and Superseded on Rehearing by *Rainess v. Jose Perez 1031 4, LLC*, Fla.App. 3 Dist., September 25, 2024.** Lack of due process leads to the vacation of a tax deed sale.

XV. Rules of Construction

- a. ***Grassfield v. Grassfield*, 381 So.3d 628 (Fla. 2d DCA 2023)**. Rules expressed in the conjunctive require satisfaction of all requirements.