

IN THE DISTRICT COURT OF APPEAL
THIRD DISTRICT, STATE OF FLORIDA

WILMINGTON TRUST, N.A., etc.,

Case No: 3D23-1222

Appellant,
vs.

L.T. Case No: 2019CA009509

ROBERT FAINE, et al.,

Appellees.

MOTION TO DISMISS APPEAL AS MOOT

The order on appeal has been vacated based on appellant's timely and authorized motion for rehearing. This appeal can be dismissed as moot.

I. RELEVANT BACKGROUND

Wilmington Trust, N.A., Not in its Individual Capacity, But Solely as Trustee of MFRA Trust 2014-2 commenced this foreclosure action in March 2019. [R27.] Final judgment entered in favor of Wilmington Trust in May 2023, in the amount of \$795,919.83. [R1435.] SFL Property Holding LLC timely moved for rehearing pursuant to Florida Rule of Civil Procedure 1.530. [R1503.] The court granted rehearing and entered a "corrected" final judgment in June 2023, reducing the judgment to \$695,745.04. [R1617.] Wilmington Trust filed a notice of appeal of the "corrected" judgment in July 2023. [R1593.]

Wilmington Trust also filed a timely and authorized motion for rehearing of the “corrected” final judgment. [R1569.] This appeal has been held in abeyance pending resolution of that motion. Fla. R App. P. 9.020(h)(2)(C). The trial court issued a written ruling via e-mail on December 6, 2024 stating that the June 2023 “corrected” judgment was signed in error. [Ex. 1.] The trial court thereon entered an order on December 9, 2024 formally granting rehearing, vacating the June 2023 “corrected” judgment, and reinstating the original May 2023 final judgment. [Ex. 2.]

II. ARGUMENT

“An issue is moot when the controversy has been so fully resolved that a judicial determination can have no actual effect.” *Paul Jacquin & Sons, Inc. v. City of Port St. Lucie*, 69 So. 3d 306, 308 (Fla. 3d DCA 2011). “A case is moot when it presents no actual controversy or when the issues have ceased to exist.” *Id.* “A moot case generally will be dismissed.” *Id.*

This is an appeal of the June 2023 “corrected” final judgment of foreclosure. [R1593.] That judgment has been vacated. [Ex. 2.] This appeal is now moot and should be dismissed.

III. CONCLUSION

This appeal of the now-vacated June 2023 “corrected” final judgment of foreclosure should be dismissed as moot.

Respectfully submitted,

ATLAS | SOLOMON LLP

By: /s/ Eric M. Levine

Eric M. Levine, Esq., BCS

Florida Bar No. 64357

Eric S. Matthew, Esq.

Florida Bar No. 26539

819 SW Federal Highway, Ste 301

Stuart, FL 34994

Telephone: (772) 247-0157

Telecopier: (772) 419-8067

servicemailbox@atlas-solomon.com

elvine@atlas-solomon.com

eric@atlas-solomon.com

*Counsel for Wilmington Trust, N.A., Not in
its Individual Capacity, But Solely as
Trustee of MFRA Trust 2014-2*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via e-mail to all parties on the attached service list this 13th day of December 2024.

ATLAS | SOLOMON LLP
*Counsel for Wilmington Trust, N.A.,
Not in its Individual Capacity, But
Solely as Trustee of MFRA Trust
2014-2*

By: /s/ Eric M. Levine
Eric M. Levine, Esq.

SERVICE LIST

Wesley B. Colgan, III
Colgan Dominelli Law, PLLC
848 Brickell Ave, Ste 302
Miami, FL 33131
wes@codolaw.com
service@codolaw.com
**Counsel for Defendant SFL
Property Holding, LLC**

Erik Wesoloski
Wesoloski Carlson, P.A.
848 Brickell Ave., Suite 302
Miami, FL 33131
service@wesoloskicarlson.com
erik@wesoloskicarlson.com
gheredia@wesoloskicarlson.com
**Counsel for Defendant SFL
Property Holding, LLC**

Barry Blaxberg, Esq.
Blaxberg, Grayson, Kukoff & Forteza, P.A.
25 SE 2nd Avenue, Suite 730
Miami, FL 33131
barry.blaxberg@blaxfray.com
blaxberg.assistant@blaxgray.com
**Counsel for Defendant The Tower
Residences Condominium Association of Coconut Grove, Inc.**

By: /s/ Eric M. Levine
Eric M. Levine, Esq., BCS

Exhibit 1

Eric Levine

From: cmap-no-reply@jud11.flcourts.org
Sent: Friday, December 6, 2024 4:12 PM
Subject: 2019-009509-CA-01 : WILMINGTON TRUST NATIONAL ASSOCIATION vs ROBERT FAINE et al

Good afternoon. This matter has come before the Court pursuant to PL's motion for relief following several court orders in May and June of 2023. The parties briefed the matter and recently had a hearing before the Court. The Court went back to review the briefs, pleading history, and its hearing notes. The Court apologizes for any delayed response but it took some time to review all the materials during a time that didn't conflict with its current obligations in UCC.

After further research and review, the Court has deemed that the May 2023 judgment (Filing #173019074) should be the operative adjudication, and that the subsequent "corrected judgment" from June 2023 (Filing #174693181) was signed by the Court in error and without the required substantiation. As such, the proper disposition is for the June 2023 order to be vacated, and the May 2023 order to be reinstated and control.

The Court will be preparing an order and filing it as to the above-referenced.

Thank you.

Email Recipients:

adam@atlas-solomon.com; servicemailbox@atlas-solomon.com; dorothy@atlas-solomon.com; law@sagrelawfirm.com; cal@khllaw.com; eservicemia@khllaw.com; elevine@atlas-solomon.com; eric@atlas-solomon.com; erik@wesoloskicarlson.com; service@wesoloskicarlson.com; barry.blaxberg@blaxgray.com; blaxberg.assistant@blaxgray.com; edward.proenza@blaxgray.com; proenza.Assistant@blaxgray.com; kmattingly@beckerlawyers.com; Cofoservicemail@beckerlawyers.com; COFOEfile@beckerlawyers.com; rsanders@kelleykronenberg.com; service@codolaw.com; wes@codolaw.com; paralegal@codolaw.com; cguzman@jud11.flcourts.org

Please visit the Judge's webpage (<https://www.jud11.flcourts.org/About-the-Court/Judges/Judicial-Directory>) for additional instructions.

The 11th Judicial Circuit serves the citizens of Miami-Dade County Florida. The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Exhibit 2

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY FLORIDA

WILMINGTON TRUST, NATIONAL
ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT
SOLELY AS TRUSTEE OF
MFRA TRUST 2014-2
Plaintiff,

CASE NO: 2019-9509-CA-01

vs.

CIVIL DIVISION


ROBERT FAINE, et. al.
Defendants.

ORDER ON PLAINTIFF'S RULE 1.530 MOTION FOR REHEARING

THIS CAUSE came before the Court on Plaintiff's Rule 1.530 Motion for Rehearing of the June 6, 2023 Corrected Final Judgment. Upon consideration of Plaintiff's motion, Defendant's response, argument of the parties at the November 12, 2024 hearing and being otherwise duly advised in these premises, the Court **ORDERS AND ADJUDGES:**

1. The Motion is **GRANTED**.
2. The June 6, 2023 Corrected Final Judgment is hereby **VACATED**.
3. The May 12, 2023 Final Judgment is hereby **REINSTATED**.

DONE AND ORDERED this 6th day of December, 2024.


HONORABLE CARLOS GUZMAN
Circuit Court Judge