

IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT

CASE NO. 3D2024-0746
Lower Tribunal Case No. 2022-008534-CA-01

PDX REAL ESTATE, LLC,

Appellant,

v.

ROMAZER GROUP, LLC, a Florida Limited Liability Company,
KMTG PROPERTY MANAGEMENT & INVESTMENTS, LLC, a Florida
limited liability company; KMTG-PRISMA INVESTMENT, LLC, a
Florida limited liability company; MARIO ALFONSO SANTIAGO, an
individual; JOHNATHAN SANTIAGO, an individual; and MAYERLIN
TIRADO, an individual

Appellees.

On Appeal from the Circuit Court of the Eleventh Judicial Circuit In
and For Miami-Dade County, Florida

INITIAL BRIEF OF APPELLANT

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INTRODUCTION

Appellant, PDX Real Estate LLC, submits its Initial Brief seeking reversal of the lower court's ruling that denied PDX Real Estate LLC's Motion to Intervene, dated March 26, 2024. (R. 348-349).

The Motion to Intervene sought relief to allow PDX Real Estate to intervene into the *Romazer Group LLC v. KMTG Property Management & Investments, LLC, et al.*, case to challenge a Default Final Judgment that was entered in favor of Romazer Group LLC on June 2, 2023, and a Sheriff's Deed that was entered in favor Southwest Holdings 33185 Trust on January 4, 2024. (R. 252-254, 266-273).

Pursuant to Default Final Judgment obtained by Romazer Group LLC, a certain property that PDX Real Estate had sought a constructive trust and had a pending Lis Pendens for, was sold via a sheriff's sale in Miami-Dade County on January 4, 2024. (R. 279-295, 299-301). PDX Real Estate was therefore directly affected by the Default Final Judgment and the unlawfully and/or improperly obtained Sheriff's Deed which should have been rendered void.

Through the instant appeal, PDX Real Estate LLC shall be referred to as “Appellant, “PDX,” or “PDX Real Estate.” Romazer Group LLC shall be referred to as “Romazer.” KMTG – Prisma Investments LLC shall be referred to as “KMTG Prisma”, and KMTG Property Management & Investments LLC shall be referred to as “KMTG Property.”

Southwest Holdings 33185 Trust shall be referred to as “Southwest Holdings,” the Default Final Judgment obtained by Romazer on June 2, 2023, shall be referred to the “Romazer Judgment.”

Citations to the Record on appeal shall be referred to as “R.” with the corresponding document or page number(s). Citations to the Appendix being filed alongside this Initial Brief shall be referred as “A.” with the corresponding document or page number(s).

STATEMENT OF THE CASE AND FACTS

Around February 2022, PDX Real Estate entered into a several written agreements with KMTG Prisma to buy, sell, flip properties located in South Florida. (R. 279-295). In pertinent part, PDX Real Estate entered into a joint venture agreement with KMTG – Prisma Investments LLC for a property located at 4504 SW 159th Ave, Miami Florida 33185 (the “Subject Property”). (R.196-198, 282-283).

Pursuant to the joint venture agreement with KMTG Prisma, PDX Real Estate transferred One Hundred Thousand dollars (\$100,000.00) to KMTG Prisma. (R. 279-295). After realizing that PDX Real Estate’s joint venture agreements with KMTG Prisma were not being adhered to, PDX Real Estate filed a law suit against KMTG Prisma, KMTG Property, and the principal of the entities, Alfonso Santiago, i.e. *PDX Real Estate v. KMTG Prisma et al.*, *Id.* PDX Real Estate complaint was filed on April 6, 2023. (R. 200, 279).

As part of the claims brought by PDX Real Estate against KMTG Prisma, PDX sought a Constructive Trust in its Complaint, and a Lis Pendens was filed on April 17, 2023, and December 5, 2023, with the intention of placing the public on notice that PDX was seeking a claim over the Property. (R. 215, 218).

On January 4, 2024, during the pendency of PDX Real Estate Lis Pendens, Romazer caused a Sheriff's deed to be executed in favor of Southwest Holdings without any notice to PDX. Southwest Holdings purchased the Sheriff's Deed for a grossly short amount of \$6,200. (R. 299-301).

Due the Romazer Judgment having been executed with violations of procedure and due process, and PDX not having notice of the Sheriff's sale, PDX Real Estate sought to Intervene into the *Romazer* case to cancel and/or set aside the Sheriff's Deed because it interfered with PDX's claims and rights over the Property. (R.249-326).

PDX Real Estate initially filed its Motion to Intervene on February 5, 2024. The Motion to Intervene was then re-filed as an emergency filing on March 12, 2024. There was no written opposition filed by any party to the case in response to any of the filings of PDX Real Estate's Motion to Intervene. (R. generally).

A hearing was held via Zoom Conference on March 13, 2024. During the hearing, the lower court allowed Plaintiff Romazer to make oral argument while also allowing non-parties to oppose PDX's relief.

The lower court ultimately denied the Motion to Intervene reasoning that PDX Real Estate's claim over the Subject Property was an unrecorded lien (A.023) and entered an Order on March 26, 2024. (R.348-349). Respectfully, the lower court erred in its ruling and the instant appeal follows.

SUMMARY OF THE ARGUMENT

The lower court erred in denying PDX Real Estate's Motion to Intervene by not only abusing its discretion but also in miapplying the applicable standard of review.

The rules governing intervention provide that anyone *claiming an interest* in a pending litigation may *at any time* be permitted to *assert a right by intervention*. (*emphasis added*). A claim of interest over a property, according to the Florida Supreme Court, is an interest sufficient to permit intervention.

Here, PDX Real Estate could have, at least by a prima facie, that it had, and continues to have, a claim of interest in the Subject Property through its claim for a Constructive Trust over the Subject Property. The rules governing intervention do not *require* a recorded interest and the lower court therefore abused its discretion in denying PDX Real Estate's Motion to Intervene.

The lower court also abused its discretion in denying PDX Real Estate's Motion to Intervene, particularly when PDX Real Estate raised due process concerns regarding the manner in which the Romazer Judgment was obtained. Tr courts do not have discretion on whether to vacate judgments that are void.

PDX Real Estate's Motion to Intervene with exhibits, and argument from counsel on behalf of PDX Real Estate, indicated to the lower court that the Romazer Judgment did not comport with due process. Therefore the denial of PDX Real Estate's Motion to intervene, without due consideration was erred.

Moreover, permitting non-parties, to essentially *intervene* to oppose PDX's relief, should have been permitted, nor should any of the arguments presented b non-parties have been support to deny PDX Real Estate's due process rights.

STANDARD OF REVIEW & BASIS FOR JURISDICTION

An order denying a motion to intervene is considered a final, appealable order as it constitutes a final determination of the proceeding as to the parties seeking to intervene. *F.Y.E.S. Holding, Inc. v. House Golden Rule, LLC*, 347 So.3d 66 (Fla. 3d DCA 2021). Florida courts have consistently held that such orders are appealable by the movant. *Highwoods DLF EOLA, LLC v. Condo Developer, LLC*, 51 So.3d 570 (Fla. 5th DCA 2010).

Appellate courts have further clarified that the denial of a motion to intervene is reviewable by plenary appeal as opposed to certiorari. *Id.*

Unless pure questions of law are involved, appellate courts are to review denials of motions to intervene under an abuse of discretion standard. *Barnhill v. Fla. Microsoft Anti-Trust Litig.*, 905 So. 195, 199 (Fla. 3d DCA 2005). While discretion is vested in the lower court, “nevertheless, in the exercise of judicial discretion, the trial court should be guided and controlled by legal principles to which the actions of courts must conform.” *Coral Bay Prop. Owners Ass’n. v. City of Coral Gables*, 305 So. 2d 853, 855 (Fla. 3d DCA 1974) (applying legal principles enunciated by the Florida Supreme Court

on intervention and reversing the lower court's order denying a motion to intervene). *See also, Miracle House Corp. v. Haige*, 96 So. 2d 417 (Fla. 1957) (reversing denial of intervention in view of the aim to allow liberal joinder of parties and claims).

Where there are procedural errors presented to the lower court that amount to violations of due process and are therefore questions of law, the review of this court is de novo. *Dabas v. Boston Investors Group, Inc.*, 231 So.3d 542, 545 (Fla. 3d DCA 2017).

ARGUMENT

I. The Court Erred in Denying PDX Real Estate's Intervention Despite PDX Real Estate Having the Requisite Interest.

a. Legal Standards for Intervention

Florida Rule of Procedure 1.230 provides that “[a]nyone claiming an interest in pending litigation may at any time be permitted to assert a right by intervention, but the intervention shall be in subordination to, and in recognition of, the propriety of the main proceeding, unless otherwise ordered by the court in its discretion.” Fla. R. Civ. Pro. 1.230.

The nature of an interest that will permit intervention, as explained by the Florida Supreme Court:

The interest which will entitle a person to intervene . . . must be in the matter in litigation, and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment. In other words, the interest much be that created to, or lien upon, the property or some part thereof, which is the subject of the litigation.

Union Cent. Life Ins. Co. v. Carlisle, 593 So.2d 505,507 (Fla. 1992).

When an intervenor has established a right to intervene under the applicable rules, the denial of a motion to intervene warrants reversal. See *Accident911 Help Medical Center Cor., v. Direct General Insurance Company*, 387 So.2d 360 (Fla. 3d DCA 2023).

Trial courts have been found to abuse discretion when the denial intervention is based on factors that are **not** part of the established test for intervention. Factors that are not part of the established test include: determining that an intervening party is not an indispensable to a litigation, considering the ultimate outcome of case, or even determining that intervention is inappropriate because the request of the intervenor is to have the lower court reconsider its prior rulings.

In *Accident911*, the lower court focused on whether or not the parties seeking intervention were indispensable parties and determined that the intervening parties were not indispensable

parties and therefore denied intervention. *See Accident911 Help Medical Center Cor., v. Direct General Insurance Company*, 387 So.2d 360, 362-363 (Fla. 3d DCA 2023). On appeal, this Court agreed that the intervening parties were not indispensable parties, however, because the intervening parties clearly met the well-established test for intervention, this Court concluded that the lower court abused its discretion in denying intervention and reversed the lower court's order denying intervention. *Id.* at 362-364.

In *FYES*, a title holder of a condominium (“FYES”) sought intervention into an eviction action instituted by another non-title holder entity (“HGR”) with regard to a tenant at FYES’s condominium. *F.Y.E.S. Holdings, Inc., v. House Golden Rule, LLC*, 347 So.3d 66 (Fla. 3d DCA 2021). The lower court denied intervention for two main reasons: it determined that FYES’s motion to intervene was moot after the complaint filed by HGR was dismissed by stipulation between HGR and the tenant, and even if the motion was not moot, the court found intervention inappropriate because FYES was bound by the stipulation of dismissal. *Id.* at 68. FYES appealed the order denying intervention and this Court agreed that “the rule governing

intervention does not require the court to consider the ultimate outcome of the case.” *Id.*

In the more recent Aguilar case, this Court addressed a situation where the lower court denied the intervenor, Midnight Express—a purported competitor that had hired former employee Aguilar in violation of a non-compete agreement—the right to intervene in injunction proceedings, despite the fact that the resulting injunction directly impacted Midnight Express's ability to employ Aguilar. See *Midnight Express Power Boats, Inc., v. Aguilar*, 2024 WL 1183552 (Fla. 3d DCA 2024). The lower court in *Aguilar* entered an order stating “[t]he non-party is, in essence, requesting that this Court reconsider its prior ruling on a temporary injunction of a defaulted defendant. This is not an issue that is subordinate to the claims in this cause.” *Id.* at 2. This Court reversed the denial of intervention concluding that intervention should have been allowed and that it was error for the lower court to conclude that intervention was inappropriate because Midnight Express sought to have the court revisit its injunction order, and it was error for the lower court to determine that this request was not subordinate to the plaintiff's

primary claim, which sought to enjoin Aguilar from working for Midnight Express. *Id.* 2-3

b. PDX Real Estate's Interest

In this case, PDX Real Estate demonstrated that its interests are directly impacted by the default Final Judgment obtained by Romazer. In its Motion to Intervene, PDX Real Estate detailed that in February 2022, it entered into several joint venture agreements with KMTG Prisma to buy, sell, and flip properties in South Florida (R. 279-295). Notably, PDX Real Estate entered into a joint venture agreement with KMTG Prisma for the Subject Property. (R.196-198, 282-283). In accordance with the joint venture agreement with KMTG Prisma, PDX Real Estate transferred One Hundred Thousand Dollars (\$100,000.00) to KMTG Prisma. (R. 279-295). When PDX Real Estate discovered that KMTG Prisma was not adhering to the agreements, PDX Real Estate filed a law suit against KMTG Prisma, KMTG Property, and the principal of the entities, Alfonso Santiago, in *PDX Real Estate v. KMTG Prisma et al.* The complaint was filed on April 6, 2023. (R. 200, 279).

In its Complaint, PDX Real Estate sought the imposition of Constructive Trust due to the Joint Venture concerning the purchase

and sale of a specifically identifiable property. A Lis Pendens was filed PDX Real Estate on April 17, 2023, and December 5, 2023. (R. 215, 218).

PDX Real Estate also stated in its Motion to Intervene, that on January 4, 2024, during the pendency of PDX Real Estate Lis Pendens, Romazer caused a Sheriff's deed to be executed in favor of Southwest Holdings. Southwest Holdings purchased the Sheriff's Deed for a grossly short amount of \$6,200. (R. 299-301) *See Union Cent. Life Ins. Co. v. Carlisle*, 593 So.2d 505, 507-08 (Fla. 1992) (stating that "the size of the interest" is a factor the lower courts should consider in determining intervention). Consequently, PDX Real Estate maintained a claim of interest over "the property or some part thereof" as clearly stated by the Florida Supreme Court. *Carlisle*, 593 So.2d at 507; *see also, Morgareidge v. Howey*, 75 Fla. 234 (Fla. 1918).

c. Incorrect Application of Legal Standards

During the hearing on PDX Real Estate's Motion to Intervene, the Court's focus on summarily denying the Motion to Intervene was solely on whether there was a recorded interest. (A.023). However, requiring that a party have a recorded interest on the property is

beyond what the rules of intervention explicitly state. As it bears reiteration, Florida law states that the interest sufficient may be a claim to property or some part thereof, which is exactly what PDX Real Estate has claimed in the lower court. *See W. Klang & Son, Inc. v. Milar Galleries, Inc.*, 328 So.2d 510 (reversing denial of intervention when intervenor claimed it had an ownership interest over missing items from a jewelry where the jewelry store filed suit against its insurer); *see also Moragareidge v. Howey*, 75 Fla. 234 (Fla. 1918); *Miracle House Corp. v. Haige*, 96 So.2d 417 (Fla. 1957).

Within PDX Real Estate's Motion to Intervene, the lower court had the opportunity to determine the scope of PDX Real Estate's intervention into the *Romazer* case. PDX Real Estate attempted to point out to the lower court that the judgment obtained by Romazer had procedural mishaps that amounted to violations of due process that would render a judgment void, and also other issues such as pre-suit notice issues, that would render the judgment voidable.

The lower court should have allowed PDX to intervention under the circumstances of the claims involving the subject property. The lower court respectfully erred in denying intervention simply because the intervenor did not have recorded interest. Moreover, the record

demonstrates the lower court rejected reviewing the matter further given the fact its review could potentially affect a prior ruling. (A. 022); *but see, See Midnight Express Power Boats, Inc., v. Aguilar*, 2024 WL 1183552 (Fla. 3D DCA 2024).

The lower court in this case was taking a very similar position in that of *Aguilar*, shying away from reviewing its prior ruling that affected a nonparty and depriving a nonparty of its right to intervene in an effort to maintain a judgment even though there may be issues with it. (A.019-021).

The lower court essentially refused to consider argument as to why the judgment was defective. (A. 022). “Under 1.230, the rule does allow at any time for intervention, which would include post-judgment intervention, but, you know, what you're asking is for the Court to attack, essentially, the judgment...” (A.022).

If the lower court had concerns as to the extent of PDX Real Estate's participation, it had the discretion to determine the parameters of that participation. *See, FLA. R. CIV. P. 1.230 cmts* (1967); *Union Cent. Life Ins. Co. v. Carlisle*, 593 So.2d 505, 507-8 (Fla. 1992). There was simply no basis to totally deny PDX Real Estate's right to *attempt* to intervene.

II. The Lower Court Abused Its Discretion When It Declined to Examine Crucial Procedural Issues In Sheriff's Sale And The Romazer Judgment.

Trial courts do not have discretion on whether to vacate void judgment. If a judgment entered is void, the lower court *must* vacate the judgment. *Lamoise Group, LLC v. Edgewater South Beach*, 278 So.3d 796 (Fla. 3d DCA 2019) (*emphasis added*). A void judgment is one so defective that it is deemed to never have had legal force from the beginning. *Dabas v. Boston Inv'rs Grp., Inc.*, 231 So.3d 542,545 (Fla. 3d DCA 2017).

Lower courts should review proposed final judgments submitted by a party to the litigation. *See Byers v. Byers*, 149 So.3d 161, 162 (Fla. 1st DCA 2014) (stating that the law does not preclude a trial judge from adopting a proposed final order, however it is not a “substitute for thoughtful and independent analysis of the facts, issues, and law by the trial judge.”)

a. The Lower Court Overlooked Due Process Concerns Leading to the Romazer Judgment

As referenced in PDX's Motion to Intervene, the Romazer Judgment contained a number of issues. (R.172-247). Given proper consideration, the Romazer Judgment is void for failing to conduct a

trial or other evidentiary hearing on the unliquidated damages. The default final judgment entered by the court in *Romazer* was done without a hearing at all, even though the law in Florida is that a defaulting party is entitled to a hearing on unliquidated damages. *ICMFG & Assocs. v. Bare Bd Grp., Inc.*, 238 So.3d 326, 355 (Fla. 2nd DCA 2017). Damages are liquidated when the precise amount to be awarded can be determined accurately from the pleaded cause of action, such as a pleaded agreement between the parties, through straightforward arithmetic, or by applying definite rules of law. *Paramo v. Floyd*, 154 So. 3d 477, 478 (Fla. 2d DCA 2015). The "defaulted party has a due process right to notice and an opportunity to be heard on the subject of unliquidated damages." *Rodriguez v. Thompson*, 235 So. 3d 986, 987-88 (Fla. 2d DCA 2017). A judgment entered without the required notice and opportunity to be heard is void. *Viets v. AA1Recruiters Enters., Inc.*, 922 So.2d 1090, 1095 (Fla. 4th DCA 2006).

In this instant case, Romazer's claims against KMTG Prisma were unliquidated. (R. 61-91). The damages that were pled for civil conspiracy against KMTG-Prisma Investments cannot be determined from the cause of action as pleaded because there are no allegations

of any determined amounts in the Amended Complaint. (See R. 61-91). Romazer, unfortunately, passed over a crucial step in the procedure, violated due process rights, and therefore has a void judgment against KMTG Prisma.

Of additional concern, Romazer brought a claim against KMTG Prisma for violations of Florida Statute Section 68.065 which requires a mailed written demand before recovery can be claimed. The record is devoid of any proof that the pre-suit written demand was made. FLA. STAT. § 68.065 provides that 68.065(4):

Before recovery under subsection (3) may be claimed, a written demand must be delivered by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the payment instrument to the address on the instrument, to the address given by the drawer at the time the instrument was issued, or to the drawer's last known address.

FLA. STAT § 68.065(4).

Here, no written demand was sent to KMTG Prisma on behalf of the Romazer. The demand letter that is attached to the Amended Complaint was on behalf of a member of a business entity that is not party to the case, Marian Carolina Romero Reyes, and was sent to Alfonso Santiago and not to KMTG Prisma Investment. (R.91) The

Amended Complaint, and an affidavit by Ms. Reyes, state that a written demand was sent to Alfonso Santiago. (R.91, R 86, and R.161) The Romazer Judgment therefore stems from a Complaint that fails to state a cause of action and is voidable. *Condominium Ass'n of La Mer Estates, Inc. v. Bank of New York Mellon*, 137 So.3d 396,400 (Fla. 4th DCA 2014).

Moreover, it raises additional concern that the Amended Complaint lodged by Romazer against KMTG Prisma may have been filed on behalf of an incorrect plaintiff. Romazer is a limited liability company that is owned and managed by Ms. Reyes. (R.12 at ¶ 5). Romazer and KMTG formed a few entities to flip properties, one of them being MMEG Solutions LLC. (R.15 at ¶ 31). The joint venture agreement that references the Subject Property, was between completely different business entities, KMTG Property and MMEG LLC, and not Romazer or KMTG Prisma. (R.36-R.38)

The reason such issues are of concern is that the underlying lawsuit by Romazar, not only has procedural defects, but also, the form and substance of the claims cannot be said to put other interested parties of a particular property on notice to try and preserve and/or protect its own rights. More specifically, a review of

Romazar's claims, on their face and without more, do not appraise an interested party like PDX Real Estate on the extent of risk to a certain property. See *De Pass v. Chitty*, 90 Fla. 77, 82 (Fla. 1925)(stating that the general rule of that lis pendens is notice of all fact apparent on the face of the pleadings and exhibits). *Infra* § III.

In addition, and of further concern, Romazer had no agreement for particular Subject Property with the title holder KMTG Prisma, as PDX had with KMTG Prisma in its Joint Venture. The lower court in this case erred by declining to consider these issues with the Romazer Judgment that do not comply with due process requirements.

b. The Lower Court Overlooked the Lack of Notice Of The Sheriff's Sale to PDX Real Estate

The fundamental purpose of notifying interested parties is to inform them of the existence of legal action and to provide them with an opportunity to voice their objections. Notice requirements permeate numerous areas of the law. As the court in *Lamoise Group, LLC v. Edgewater South Beach Condominium Association* explained, "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties

of the pendency of the action and afford them an opportunity to present their objections." *Lamoise Group*, 278 So. 3d at 799 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 550 (1965)).

Florida Statute Section 56.21 emphasizes this principle by mandating that "[w]hen levying upon real or personal property, a notice of such levy and execution sale and a copy of the affidavit required by s. 56.27(4) shall be sent by the sheriff to the attorneys of record of all judgment creditors and other lienholders..." FLA. STAT. § 56.21.

Moreover, due process requires that notice be "reasonably calculated, under all the circumstances," sometimes necessitating more than the bare statutory requirements. *Vosilla v. Rosado*, 944 So.2d 289, 294 (Fla. 2006). The Florida Supreme Court in *Vosilla v. Rosado* stressed that notice must account for the "practicalities and peculiarities of the case." *Id.* at 294. In *Vosilla*, the court found that notice of a tax deed sale violated due process, despite technically complying with statutory requirements. *Id.*

In the present case, Romazer failed to notify PDX Real Estate of the Sheriff's sale, even though they were fully aware of PDX Real Estate's Notice of Lis Pendens and the ongoing lawsuit against the

previous title holder, KMTG Prisma, concerning the Subject Property. (R.260). Given these facts, it is impossible for Romazer to claim ignorance of PDX Real Estate's interest in the Property. Accordingly, notice of the Sheriff's sale to PDX Real Estate was not only necessary but legally required.

The record demonstrates that the lower court had the opportunity to deepen the review to determine the scope of PDX Real Estate's Motion to Intervene, which could have been limited to review of whether Romazer provided PDX Real Estate with sufficient notice of the Sheriff's sale. FLA. R. CIV. P. 1.230 cmts (1967); Instead, the lower court summarily denied PDX's *attempt* to intervene to at least review whether a proper Sheriff Sale took place, which respectfully amounts to a reversal error. *See Larrain Troncoso v. Ossandon Larrain*, 273 So.3d 1117 (Fla. 3d DCA 2019) reversing the denial of intervention where the lower court simply denied intervention in unelaborated orders and did not conduct an evidentiary hearing); *see also, Byers v. Byers*, 149 So.3d 161, 162 (Fla. 1st DCA 2014) (stating that the law does not preclude a trial judge from adopting a proposed final order, however it is not a "substitute for thoughtful and independent analysis of the facts, issues, and law by the trial judge.").

III. PDX Real Estate’s Intervention Is Not Otherwise Precluded By Romazer’s Lis Pendens.

a. Florida law on Lis Pendens

A notice of Lis Pendens does not always give notice that the title of a subject property will be affected by the outcome of the underlying litigation, although in order to lawfully encumber a property at the outset of a litigation, it should. *See Petkovich v. Sandy Condominium Apartments Association, Inc.*, 325 So.3d 201, 203 (Fla. 2021). A lawfully filed Lis Pendens gives constructive notice arising from the pending lawsuit, “of all facts apparent on the face of the pleadings...”. *See De Pass v. Chitty*, 90 Fla. 77, 82 (Fla. 1925). It’s operation does not extend beyond the dispute between the parties named in the Lis Pendens, nor does its operation extend beyond the plaintiff’s prayer for relief. *Id.*

b. Improper Participation of Non-Party

Ironically, during the hearing on PDX Real Estate’s Motion to Intervene, the court allowed oral argument by non-party, Southwest Holdings – the purchaser of the defective Sheriff’s Deed sale which paid \$6,200.00 for the equity of home valued roughly \$900,000.00–

so that they could voice their opposition to the Motion to Intervene. (A.016-A.018). Counsel for Southwest Holdings skipped addressing the arguments made by PDX Real Estate in its Motion to Intervene, and went on to argue that because Romazer filed its Lis Pendens in 2022, that PDX Real Estate is bound by the Romazer judgment. However, The Lis Pendens filed by Romazer only gave notice to the public that Romazer filed claims for 1) Breach of Contract, 2) Fraud, 3) Civil Conspiracy, 4) Unjust Enrichment, and 5) Violation of Florida Worthless Check Statute, § 68.065, with only certain claims against certain parties. Romazer's Lis Pendens also contained the addresses of multiple properties and expired by the time Romazer obtained its judgment. (R.39-44). Romazer's wherefore clauses only sought damages, including treble damages, and reasonable fees and costs, and does not seek any relief with regard to the title of the Subject Property. Romazer Lis Pendens therefore did not give notice to interested parties, like PDX Real Estate, of any potential change in title of the Subject Property. *De Pass v. Chitty*, 90 Fla. 77, 82 (Fla. 1925).

While Romazer's notice of Lis Pendens is limited to its monetary requests, it also raises questions whether it should have had a Lis

Pendens at all. See *Blue Star Palms, LLC v. LED Trust, LLC*, 128 So. 3d 36, 38-39 (Fla. 3d DCA 2012) (“When a plaintiff can be afforded complete relief on a claim without reference to the title to the real property, a lis pendens cannot be maintained. Under the Florida cases a lis pendens is proper only when the required relief might specifically affect the property in question”).

Counsel for Southwest Holdings also got the opportunity to argue the PDX Real Estate has a “seniority or superiority of interest problem here.” Not only did Southwest Holdings not file a written response or other motion to intervene into the proceedings to properly make argument on the record, there is nothing in the rules governing intervention that require a party seeking to intervene to have a “superior interest” in order to intervene.

The lower court was misled on the proper analysis when argument was raised that PDX Real Estate was not any position to argue because “there is nothing [PDX] can do with the final judgment or this case anymore.” (A. 018) (quoting counsel for Southwest Holdings). If that were true then the rules governing motions to vacate final judgments, and the entire body of caselaw regarding the vacating void and voidable judgments, would be meaningless.

CONCLUSION

In conclusion, PDX Real Estate has the requisite interest in the Romazer case, justifying its right to *at least attempt* to intervene under Florida Rule of Civil Procedure 1.230. The lower court's denial of PDX's motion to intervene was an abuse of discretion and based on an incorrect application of law. PDX Real Estate's interest, supported by joint venture agreements, a claim for Constructive Trust, and a Lis Pendens, clearly meet the legal standards for intervention.

Moreover, the lower court's refusal to address critical procedural issues in the Romazer Judgment—such as the lack of an evidentiary hearing on unliquidated damages and non-compliance with statutory pre-suit notice requirements—raises significant due process concerns. These flaws render the judgment void and voidable, and the lower court's dismissal of these issues deprived PDX Real Estate of its right to challenge the judgment and even the Sheriff's Deed.

Any decision to bind PDX Real Estate to a judgment based on a limited Lis Pendens, and to allow arguments from other non-party without procedure, further compounded the lower court's errors.

Wherefore, the lower court's denial of the intervention must respectfully be reversed, allowing PDX to protect its interests and ensure that the legal process is fair and just.

CERTIFICATE OF COMPLIANCE

Counsel certifies that this Motion complies with the font and type requirements of the Florida Rules of Appellate Procedure. This Motion complies with the page limit set forth in the Florida Rules of Appellant Procedure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was Electronically Filed using the CM/ECF Filing System and served upon: HIRZEL DREYFUSS & DEMPSEY, PLLC, Simona Burshteyn, Burshteyn@hddlawfirm.com, Leon F. Hirzel, Hirzel@hddlawfirm.com, LAW OFFICES OF PAUL A. HUMBERT, P.L., Paul A. Humbert, pa@pahumbertlaw.com, Gregory Bryl, counsel@bryllaw.us and KMTG Property Management & Investments, LLC., KMTG-Prisma Investment, LLC, c/o Alfonso Santiago, 9719 NW 75th Terrace, Doral, Florida 33178, Johnathan Santiago and Mayerling Tirado, 9719 NW 75th Terrance, Doral, Florida 33178 on this 15th day of August, 2024.

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