

**IN THE DISTRICT COURT OF APPEALS OF FLORIDA
THIRD DISTRICT**

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

PDX REAL ESTATE, LLC,

Appellant,

v.

ROMAZER GROUP, LLC, a Florida limited liability company,

Appellee.

ANSWER BRIEF OF APPELLEE, ROMAZER GROUP, LLC

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INTRODUCTION

In this Brief, the Appellee, Romazer Group, LLC, will be referred to as “Romazer.” Appellant, PDX Real Estate, will be referred to as “PDX.”

The designation “R” will refer to the document in the Record on Appeal. The designation “A” will refer to the document in the Appendix.

STATEMENT OF THE CASE AND FACTS

Romazer is the holder of a Final Judgment dated June 2, 2023 against defendants, KMTG Property Management & Investments, LLC (“KMTG”), Mario Alfonso Santiago, Jonathan Santiago, and Mayerlin Tirado. (R. 165 - 171). PDX is not and has never been a defendant or party to the case. (R. 1 – 6). To collect on its Final Judgment, Romazer had the Miami-Dade Sheriff levy upon and sell real properties of defendants located in Miami-Dade County. (A. 1 – 24). On January 3, 2024, the real properties were sold by the Miami-Dade Sheriff at a duly authorized Sheriff’s Sale. (R. 183 – 85). A third-party purchaser unrelated to Romazer, Southwest Holdings 33185 Trust, purchased the properties. (R. 184). Thereafter, on February 5, 2024, PDX filed its unverified motion to intervene, alleging that one

of those properties was subject to an interest of PDX based on an alleged “Joint Venture Agreement to purchase, flip, and sell with KMTG-Prisma Investment” the disputed property. (R. 172, ¶ 2). In its intervention motion, PDX also alleged that Romazer’s Final Judgment “stems from a process and judgment with mishaps that amounts to violations of required procedure and violations of due process.” (R. 175, ¶ 16). This allegation was made by PDX despite it not being a party to the litigation. It is from these facts that this appeal arises.

SUMMARY OF ARGUMENT

PDX spends the majority of its Initial Brief citing to the entirely wrong legal standard regarding intervention. Rather than addressing the correct standard – post-judgment intervention, PDX analyzes the far less stringent pre-judgment standard. The distinction is paramount, as post-judgment intervention is rarely granted by courts. The defect in PDX’s argument manifests in its attempt to vacate a final judgment to a case it was not even a party to. Under PDX’s logic, anyone who felt a case was wrongly decided could collaterally attack a final judgment – even if they were not a party to that case. Florida case law is clear that such a remedy is unavailable in the post-judgment context.

In addition to citing the wrong intervention standard, PDX fails to acknowledge that it possessed other procedures available to it, rendering intervention improper. This included utilizing the statutory framework of Florida Statute § 56.16 governing executions, which would have permitted PDX to file an affidavit with the Sheriff and post an appropriate bond. PDX failed to use any alternate procedures. The trial court's order denying intervention should be affirmed.

STANDARD OF REVIEW

Appellate courts review an order denying a motion to intervene under an abuse of discretion standard. F.Y.E.S. Holdings, Inc. v. House Golden Rule, LLC, 347 So. 3d 66, 69 (Fla. 3d DCA 2021). The abuse of discretion standard requires an appellate court to affirm the trial court's ruling "unless no reasonable person would adopt the trial court's view." Salazar v. State, 991 So. 2d 364, 372 (Fla. 2008).

ARGUMENT

I. Post-Judgment Intervention Rarely, if Ever, is Granted

A post-judgment motion to intervene is rarely, if ever, granted. U.S. Bank Nat'l Ass'n v. Taylor, 30 So. 3d 530, 532 (Fla. 3d DCA 2010). And a trial court is only permitted to consider allowing post-

judgment intervention if the intervention will not injuriously affect the original litigants. Id. See also Dickinson v. Segal, 219 So. 2d 435 (Fla. 1969) (post-judgment intervention not permitted once litigation has resulted in final judgment). Although a court does have discretion to avoid the general rule and permit intervention post-judgment, it should only do so in extraordinary circumstances. Lewis v. Turlington, 499 So. 2d 905, 908 (Fla. 1st DCA 1986) (holding that post-judgment intervention is not permitted, “except in the rarest of circumstances”); see also Litvak v. Scylla Prop., LLC, 946 So. 2d 1165, 1172 (Fla. 1st DCA 2006); Schiller v. Schiller, 625 So. 2d 856, 860 (Fla. 5th DCA 1993).

Here, the case was unquestionably in a post-judgment posture at the time PDX sought intervention. In fact, the Final Judgment giving rise to the Miami-Dade Sheriff’s levy and sale was entered June 2, 2023, more than seven (7) months prior to attempted intervention filed on February 5, 2024. But PDX’s Initial Brief cites to the *pre-judgment* standard, despite its inapplicability to this case. See e.g., Union Cent. Life Ins. v. Carlisle, 593 So. 2d 505, 507 (Fla. 1992) (pre-judgment intervention attempt by insurance company attempting to intervene in medical malpractice case) (cited on page 9 of Initial

Brief); Accident911 Help Med. Ctr. Corp. v. Direct Gen. Ins. Co., 387 So. 3d 360 (Fla. 3d DCA 2023) (pre-judgment intervention sought pursuant to a personal injury assignment of benefits) (cited on page 9 and 10 of Initial Brief).

PDX spends significant time in its Initial Brief challenging Romazer's Final Judgment, despite not being a party whatsoever to those proceedings. For example, on pages 16 – 20 of its Initial Brief, PDX proposes new theories on why Romazer's Final Judgment might be defective. This includes liquidation of damages, pre-suit demands, and pre-suit standing. Florida law strictly forbids this. Neon Invs., LLC v. Afina Pallada, Inc., 299 So. 3d 45 (Fla. 4th DCA 2020) (holding that “[t]he trial court departed from the essential requirements of law by allowing this post-judgment intervention, where the purpose of the intervention was to attack the final judgment.”) For a non-party to a litigation to be given permission to collaterally attack a final judgment would destroy all principles of finality and create chaos in the court systems. See Turlington, 499 So. 2d at 908 (“[proposed post-judgment intervenors] were strangers to the litigation raising new issues and seeking different relief. It was not in the interest of justice to allow [proposed post-judgment intervenors] to intervene in

these proceedings long after they were concluded and was an abuse of discretion to do so.”)

Here, PDX seeks to usurp Florida case law and improperly intervene where intervention is not allowed. PDX’s challenge of Romazer’s Final Judgment illustrates the exact problem with post-judgment intervention – a third party contesting a judgment it was not a party to violates all strictures of jurisdiction and finality. PDX’s intervention motion does not rise anywhere near the standard of “extraordinary circumstances” that would be required to intervene post-judgment. The trial court did not abuse its discretion in denying intervention, and its order on appeal should be affirmed.

II. PDX Possessed Alternative Remedies – But Not Intervention

PDX’s attempt to intervene in these proceedings is improper under Florida law since PDX has alternative remedies. Where there is an alternative procedure that is available to protect the interest of the non-moving party, post judgment intervention is not appropriate. Tootie Discount Palace, LLC v. PTX Performance Products, Inc., 187 So. 3d 960 (Fla. 4th DCA 2016). In Tootie Discount Palace, the Fourth District held:

The trial court did not abuse its discretion in denying Appellant’s motion to intervene post-judgment. **Such motions are not appropriate when there is an alternative procedure that is available** to protect the interest of the moving party. *De Sousa v. JP Morgan Chase, N.A.*, 170 So.3d 928, 931 (Fla. 4th DCA 2015). Here, Appellant had available to it section 56.16, Florida Statutes (2015), which provides that “any person other than the defendant in execution [who] claims any property levied on ... may obtain possession of the property” by following certain procedures. **Because Appellant had this alternate procedure available to it, Appellant’s motion to intervene was inappropriate and properly denied.**

(emphasis added).

Here, like the proposed intervenor in Tootie Discount Palace, PDX possessed alternative procedures to protect its interest in the subject property. Primarily, Florida Statute § 56.16, which governs post-judgment sheriff levy situations like those present in this case, provides:

Executions; claims of third parties to property levied on.—If any person, including a person to whom a Notice to Appear has been issued pursuant to s. 56.29(2), other than the judgment debtor **claims any property levied on**, he or she may obtain possession of the property by **filing with the officer having the execution an affidavit by the claimant, or the claimant’s agent or attorney, that the property claimed belongs to the claimant and by furnishing the officer a bond with surety to be approved by the officer in favor of the judgment**

creditor in double the value of the goods claimed as the value is fixed by the officer and conditioned to deliver said property on demand of said officer if it is adjudged to be the property of the judgment debtor **and to pay the judgment creditor all damages found against the claimant if it appears that the claim was interposed for the purpose of delay.**

(emphasis added).

No evidence exists in the record that PDX ever attempted to utilize the statutory procedures available to it under § 56.16. PDX's failure to utilize that alternative remedy renders its intervention motion inappropriate. Tootie Discount Palace, LLC, 187 So. 3d 960. The trial court correctly denied PDX's intervention motion and should be affirmed.

CONCLUSION

For the reasons set forth herein, Romazer respectfully requests that this Court affirm the trial court's order and grant any other relief this Court deems just and proper.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was filed on this 4th day of November 2024 with the Florida courts e-filing portal which will automatically transmit a copy of same to all designated counsel of record pursuant to Fla. R. Jud. Admin 2.516(b)(1) as detailed below:

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief was prepared in Bookman Old Style, 14-point font, in compliance with Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

/s/ Paul A. Humbert
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