

PRACTICE & PROCEDURE

Practice & Procedure: Clerical Error

*Miami-Dade County, Florida v. Coral Bay Section
C Homeowners Association, Inc.,
979 So. 2d 318 (Fla. 3d Dist. App. 2008)*

Under Rule 1.540(b) of the Florida Rules of Civil Procedure, a clerical error constitutes excusable neglect sufficient to vacate a default judgment against a county government, even when the inaction was caused by a failure to comply with established internal procedures. Florida's longstanding policy of determining cases on their merits weighs in favor of vacating default judgments when there is any reasonable doubt as to whether the default judgment should be vacated.

FACTS AND PROCEDURAL HISTORY

In 1972, Gables-by-the-Sea (Gables), a Miami-Dade development, conveyed a salinity dam to Miami-Dade County (County) under the express condition that the dam would revert back to Gables under certain circumstances. In 2007, the Coral Bay Section C Homeowners Association, Inc. (Association), as assignees of the original grantor, filed suit against the County to quiet title in the dam pursuant to the reversionary provision of the deed. The Association served the recently elected Chairman of the Miami-Dade County Commission (Commissioner) with the complaint at his district office in March of 2007. Service was ordinarily delivered to the Commissioner's downtown Miami office; therefore, his district staff, unfamiliar with service of process, failed to follow the proper procedure of forwarding the complaint to the county attorney's office until the time to answer the complaint had passed. The trial court entered default judgment against the County because of its failure to respond to the complaint in a timely manner.

The Commissioner's staff learned of its mistake in June of 2007 and immediately forwarded the complaint to the county attorney's office. Within four days of receiving the complaint, the county attorney filed a motion to vacate the default judgment alleging excusable neglect, due diligence, and a meritorious defense.

The trial court denied the County's motion to vacate the default judgment, and the County appealed to the Third District Court of Appeal.

On appeal, the Third District initially determined there was no question the County acted with due diligence when it sought to vacate the default judgment within four days of receiving notice of it. The court also held the County had a meritorious defense to the claims of the Association evidenced by an un rebutted affidavit providing the County complied with the deed requirements. Determining the trial court had abused its discretion, the court concluded the County's inaction was the result of excusable neglect and reversed the trial court's decision.

ANALYSIS

Pursuant to Florida Rule of Civil Procedure 1.540(b), a court may relieve a party of default judgment resulting from excusable neglect of the party or the party's legal representative upon just terms and motion of the party. The County claimed it should be relieved of default judgment because its untimely response to the Association's complaint was the result of excusable neglect. The Third District explained that a finding of excusable neglect is a fact-specific inquiry because Rule 1.540(b) does not precisely define excusable neglect. Here, the court considered previous Florida cases finding excusable neglect and long-standing Florida policy in finding the County had established excusable neglect.

The court determined the staff's conduct was a clerical error constituting the type of circumstance sufficient to support a finding of excusable neglect in Florida. The court considered Florida precedent where excusable neglect was found in similar circumstances of clerical error, such as parties misplacing or misfiling complaints resulting in untimely answers. *Okeechobee Imports, Inc. v. Am. Sav. & Loan, Assn. of Fla.*, 558 So. 2d 506, 507 (Fla. 3d Dist. App. 1990). The court additionally relied on Fourth District case law holding that a matter should be determined on its merits when a party provides timely and reasonable explanation that its inaction resulted from mere secretarial or clerical errors and misunderstandings. *Somero v. Hendry General Hosp.*, 467 So. 2d 1103, 1106 (Fla. 4th Dist. App. 1985).

Here, the Commissioner's district staff committed a clerical error when it failed to forward the complaint to the county attor-

ney under the mistaken belief the complaint was a duplicate of an original copy served on the Commissioner's downtown office. In finding the staff's clerical error was reasonable, the court recognized the Commissioner was recently appointed and his staff was inexperienced in handling legal documents because most complaints were directed to the Commissioner's other office. Thus, the court held that the default judgment should be vacated because "the failure to follow established policy has been held to constitute excusable neglect." *Coral Bay Section C Homeowners Assoc.*, 979 So. 2d at 324. Even though the Commissioner's staff failed to comply with the office's established procedures for handling legal documents, its inexperience in handling complaints and mistaken belief constituted a mere clerical error that established a showing of excusable neglect.

Furthermore, the Court recognized Florida's strong preference of determining cases on their merits. This longstanding policy, established by the Florida Supreme Court, provides that lawsuits should be determined on their merits, and even in cases of reasonable doubt, a court should weigh in favor of vacating a default judgment. *North Shore Hosp., Inc. v. Barber*, 143 So. 2d 849 (Fla. 1962). The court determined the inaction of the Commissioner's staff was a mere clerical error constituting excusable neglect, and Florida's policy of determining cases on their merits favored vacating the default judgment against the County.

SIGNIFICANCE

Coral Bay confirms that inaction resulting from a clerical error sufficiently establishes excusable neglect, warranting relief from a default judgment pursuant to Florida Rule of Civil Procedure 1.540(b). Further, this case validates that excusable neglect can be established even where the failure to follow established internal procedures causes the inaction leading to default judgment. Finally, this case ratifies Florida's strong policy of determining cases on their merits when any reasonable doubt exists concerning the vacation of a default judgment.

766

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RESEARCH REFERENCES

- 32A Fla. Jur. 2d *Judgments and Decrees* § 276 (2003 & Supp. 2009).
- 3 Fla. Jur. 2d *Appellate Review* § 320 (2004 & Supp. 2009).
- 5 Fla. Prac., *Civil Practice* § 9:4 (West 2009).

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