

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed July 23, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-1278

Lower Tribunal Nos. 08-180AP, 08-1248

Mark Hernandez and Cecilia Jorge,
Petitioners,

vs.

Ada Porres,
Respondent.

On Petition for Writ of Certiorari to the Circuit Court for Miami-Dade County, Appellate Division, Jennifer D. Bailey, Gerald Bagley and Judith L. Kreeger, Judges.

Rex E. Russo, for petitioners.

Ada Porres, in proper person.

Before COPE, RAMIREZ, and WELLS, JJ.

RAMIREZ, J.

Petitioners seek review of an order of the circuit court denying their petition for writ of mandamus, which is a non-final, non-appealable order. See Fla. R. App. P. 9.130(a)(3); Mott v. Scofield, 120 So. 2d 825 (Fla. 2d DCA 1960). Thus,

review of the circuit court's order is limited to certiorari review in this Court and not by appeal. See Sheley v. Fla. Parole Comm'n, 720 So. 2d 216, 217 (Fla. 1998). For this reason, we treat the appeal as a petition for writ of certiorari and deny the petition. The circuit court properly denied mandamus because the county court lacked subject matter jurisdiction. See Toledo v. Escamilla, 962 So. 2d 1028, 1030 (Fla. 3d DCA 2007) (holding that when the defendant "asserted in her answer that she was not a tenant and that she had an equitable interest in the property, ejectment, not eviction, was the proper remedy, and the matter should have been transferred to the circuit court.").

Petition denied.