

Third District Court of Appeal

State of Florida, January Term, A.D. 2009

Opinion filed February 11, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-3027
Lower Tribunal No. 08-36529

Drak, L.L.C.,
Petitioner,

vs.

Salcines Development, Inc., et al.,
Respondents.

A Case of Original Jurisdiction – Prohibition.

Frederick Charles Sake, for petitioner.

Garcia & Associates P.L. and Rene Julián Garcia, Jr., for respondents.

Before WELLS and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

We grant the petition for writ of prohibition and remand with instructions that the trial court vacate the November 3, 2008 order granting Porry and Alegre's

motion for rehearing and reconsideration. The trial court lacked jurisdiction to entertain a motion for rehearing of its October 16, 2008 order denying Porry and Alegre's motion to set aside default final judgment. See Fla. R. Civ. P. 1.540(b); Catalano v. Catalano, 516 So. 2d 77, 77 (Fla. 5th DCA 1987) (stating that motions for rehearing of orders issued under Florida Rule of Civil Procedure 1.540(b) are not authorized); Francisco v. Victoria Marine Shipping, 486 So. 2d 1386 (Fla. 3d DCA 1986) (stating that an order entered under Rule 1.540 does not "rise to the level of a judgment" and, therefore, a trial court lacks authority to entertain a motion for rehearing from such order).

Petition granted.