

# **Third District Court of Appeal**

**State of Florida, July Term, A.D. 2009**

Opinion filed October 21, 2009.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D09-407  
Lower Tribunal No. 05-23381

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**The Haven Center, Inc.,**  
Appellant,

vs.

**Homero Meruelo,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Mary R. Barzee,  
Judge.

Kurzban Kurzban Weinger & Tetzeli, and Steven M. Weinger, and Helena  
M. Tetzeli, for appellant.

Gonzalo R. Dorta, for appellee.

Before COPE, LAGOA, and SALTER, JJ.

PER CURIAM.

The Haven Center, Inc., appeals a final summary judgment disposing of both its counterclaims against Homero Meruelo, the plaintiff below. That judgment did not, however, include an adjudication of Meruelo's claims against Haven Center for declaratory judgment and specific performance of a real estate contract. Meruelo's claims remain pending, and Haven Center's counterclaims arose out of the same contract, transactions, and occurrences that were involved in Meruelo's claims.

The adjudication of compulsory counterclaims such as these is "not appealable until a final disposition of the original cause has obtained on the merits." Campbell v. Gordon, 674 So. 2d 783, 785 (Fla. 1st DCA 1996); Northcutt v. Pathway Financial, 555 So. 2d 368 (Fla. 3d DCA 1989). Meruelo nevertheless encouraged the trial court to add the words of finality, that Haven Center "take nothing on its counterclaim and go hence without day," over Haven Center's objection. We reverse the judgment because it is not, in fact, a final judgment, but we do so without prejudice to the right of the parties to appeal when both the claims and the counterclaims have been fully adjudicated.

Reversed.