

Third District Court of Appeal

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

Opinion filed December 9, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-1760

Lower Tribunal No. 09-15404

Graciela Solares and Elvis Cruz,
Appellants,

vs.

The City of Miami and Miami-Dade County,
Appellees.

An Appeal from a non-final order of the Circuit Court for Miami-Dade County, Lawrence A. Schwartz, Judge.

Richard L. Williams and Linda L. Carroll, for appellants.

R.A. Cuevas, Jr., Miami-Dade County Attorney, and Lee Kraftchick and Robert A. Duvall, Assistant County Attorneys, for appellees.

Before COPE, WELLS and CORTIÑAS, JJ.

COPE, J.

This is an appeal of an order denying a temporary injunction. We dismiss the appeal as moot.

Graciela Solares and Elvis Cruz brought an action for declaratory and injunctive relief against Miami-Dade County and the City of Miami. The lawsuit challenges various aspects of the agreement between Miami-Dade County, the City of Miami, and the Florida Marlins to build a baseball stadium to be used by the Marlins.

On June 12, 2009, the plaintiffs-appellants Solares and Cruz served an emergency motion for temporary injunction. The emergency motion asked the trial court to enter an injunction to stop Miami-Dade County's pending sale of the Series 2009A Refunding Bonds and Series 2009B Taxable Refunding Bonds until the lawsuit could be decided. The County served a response and the plaintiffs served a reply. At a hearing on June 18, 2009, the trial court denied the temporary injunction, and the plaintiffs have appealed.

The plaintiffs did not request an emergency stay from this court pending appeal. In the meantime, the refunding bonds have been sold to third persons who are not parties to this litigation.

The purpose of the emergency motion for temporary injunction was to prevent a sale of the bonds until the lawsuit could be decided. The bonds have now been sold. The appeal of the order denying the emergency motion for

temporary injunction is moot. See San Francisco Residence Club, Inc. v. 7027 Old Madison Pike, LLC, 583 F.3d 750 (11th Cir. 2009).

The plaintiffs argue that the issue is not moot. The plaintiffs argue that the County is using proceeds of the refunding bonds for an illegal purpose. That argument makes no difference. The relief requested in the trial court was that the trial court “enter a temporary injunction and enjoin the County from proceeding with the issuance and sale of the Series 2009 Refunding Bonds.” The issuance and sale have occurred, and the bonds are now held by persons who are not parties to this litigation. The suggestion that an injunction should be issued regarding the use of the proceeds of the bonds sale was not raised in the emergency motion.

In dismissing the appeal as moot, we do not express any opinion on any other issue in the case, or any other issue raised in the briefs on appeal.

Appeal dismissed.