

Third District Court of Appeal

State of Florida, July Term, A.D. 2010

Opinion filed October 27, 2010.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-2220

Lower Tribunal Nos. 03-7911

03-13873

(Consolidated)

Olimpia Health Systems, Inc., a Florida corporation,
Appellant,

vs.

**Preferred Care Partners Holding Corp.; Finlay Physician Group,
Inc.; Palm Springs Mile Associates, Ltd.; and Preferred Care
Partners Medical Group, Inc.,**
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Pedro P. Echarte, Jr., Judge.

Ross & Girtten and Lauri Waldman Ross; Michael Schiffrin, for appellants.

Legon Ponce & Fodiman and Todd R. Legon and William F. Rhodes, for appellees.

Before GERSTEN, SHEPHERD, and CORTIÑAS, JJ.

PER CURIAM.

As the party alleging fraud, it was the appellant's burden to prove it by substantial evidence. Tischler v. Robinson, 84 So. 914 (1920); Volusia County Bank v. Bigelow, 33 So. 704 (1903). Here, the trial court "weigh[ed] the testimony presented to it with due consideration being given to the particular circumstances surrounding the conveyances under attack. The court's findings of fact and conclusions of law come to us with a presumption of correctness and will not be disturbed unless they are clearly erroneous." Scott v. Dansby, 334 So. 2d 331, 333 (Fla. 1st DCA 1976). We find no reversible error in the trial court's ruling.

Affirmed.

GERSTEN and CORTIÑAS, JJ., concur.

SHEPHERD, J., dissenting.

I dissent.

