



Real Property Case Law Update

Recent Opinions of Interest to
Real Property Litigators and Practitioners

Week Ending October 5, 2012

By the Carlton Fields Real Property Litigation Practice Group

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CONTENTS

Selection of Real Property Litigation Case Summaries

- I. Florida State Cases
- II. 11th Circuit Cases
- III. Title Insurance Cases
- IV. The Weekly Update Team

I. FLORIDA STATE CASES - ILAN NIEUCHOWICZ

- **Homestead Exemption:** owner entitled to homestead exemption for ad valorem property taxes if property is (1) owner's permanent residence or (2) permanent residence of a person legally or naturally dependent on owner; owner does not have to reside on the property to be eligible under this circumstance – [Garcia v Andonie](#), Case No. SC11-554 (Fla. Oct. 4, 2012) (affirmed)
- **Summary Judgment:** trial court erred by entering summary judgment before the opposing party completed discovery - [Almond Entertainment, Inc. v Bayview Loan Servicing, LLC](#), Case No. 2D11-47 (Fla. 2d DCA Oct. 5, 2012) (reversed and remanded)
- **Summary Judgment:** trial court erred when it entered summary judgment without addressing affirmative defenses and counterclaims - [Sanchez v Soleil Builders](#), No. 5D11-2349 and 5D11-2495 (Fla. 5th DCA Oct. 5, 2012) (reversed and remanded)

II. 11TH CIRCUIT CASES – JIN LIU

- **Collateral Estoppel:** collateral estoppel is an affirmative defense that is generally not a basis for dismissal and, thus, HUD's quiet-title action seeking to recover property foreclosed upon by condominium association due to HUD's failure to pay assessments not subject to dismissal on grounds of collateral estoppel – [U.S. v. Triface Investments, LLC](#), Case No. 6:12-cv-861-Orl-31GJK (M.D. Fla. Sept. 25, 2012) (denying defendant's motion to dismiss)

III. TITLE INSURANCE CASES - NONE

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