Third District Court of Appeal

State of Florida

Opinion filed November 4, 2026.
Not final until disposition of timely filed motion for rehearing.

No. 3D25-2497
Lower Tribunal No. 19-CA-175-K

Monroe County,
Appellant,

vs.

Roy's Trailer Park, Inc., etc., et al.,
Appellees.

An Appeal from the Circuit Court for Monroe County, Bonnie J. Helms, Judge.

Bob Shillinger, Monroe County Attorney and Jessica Pierce Quiggle, Assistant County Attorney, for appellant.

VDF Law PLLC, and Van D. Fischer, for appellee Roy's Trailer Park, Inc.; Hoffman, Larin & Agnetti, P.A., and John B. Agnetti, for residents of Roy's Trailer Park, Inc.

Before LINDSEY, BOKOR and GOODEN, JJ.

BOKOR, J.

Roy's Trailer Park, Inc., filed suit for a declaratory judgment that mobile home park owners cannot be responsible for tenant fire code violations under section 723.024, Florida Statutes. The County countersued, seeking a declaration that they can be, and added a count for injunctive relief to enforce the fire code at Roy's Trailer Park. The trial court dismissed the County's counterclaims for lack of subject matter jurisdiction, citing the County's failure to exhaust administrative remedies adopted by local ordinance. The County appeals the final order of dismissal. For the following reasons, we reverse.

BACKGROUND

In May 2015, a fire at Roy's Trailer Park led to the discovery that 14 people were living in one single-wide trailer. Monroe County obtained an inspection warrant, whereafter the Fire Marshal and local enforcement board identified numerous safety issues.

In 2018, Roy's Trailer Park filed suit against the County as well as two of its tenants in county court. In Count I, Roy's Trailer Park sought to evict the tenants for fire code violations that endangered the "health, safety and welfare" of others. Count II sought a declaratory judgment that a trailer park can't be the "responsible party" for a code violation under section 723.024,

Florida Statutes,[1] which affirms the authority of local governments to cite violations at mobile home parks notwithstanding the State's more general preemption of mobile home park regulation in Chapter 723.[2]

The County countersued seeking the opposite declaration, that a trailer park *can* be responsible for violations under 723.024, as well as for an injunction prohibiting occupancy of Roy's Trailer Park until its many "serious fire and life safety issues" were cured, and to appoint a receiver. On Roy's motion the case was transferred to circuit court, and Roy's Trailer Park then moved to dismiss the counterclaims for failure to join eighty-six tenants of the trailer park. The County amended its countersuit to add them.

In September 2021, Roy's Trailer Park moved for partial summary judgment on the counterclaims. Roy's Trailer Park argued that because the County had adopted a code enforcement procedure by local ordinance,[3] the

---

[1] "Notwithstanding any other provision of this chapter . . . [i]f a unit of local government finds that a violation of a local code or ordinance has occurred, the unit of local government shall cite the **responsible party** for the violation . . . ." § 723.024(1), Fla. Stat. (emphasis added).

[2] "There is hereby expressly preempted to the state all regulation and control of mobile home lot rents in mobile home parks and all those other matters and things relating to the landlord-tenant relationship treated by or falling within the purview of this chapter." § 723.004(2), Fla. Stat.

[3] "There is hereby created a department . . . . responsible for the enforcement of . . . ordinances concerning: . . . fire . . . as well as any other ordinances of the county." Monroe County Code § 8-2

trial court had no subject matter jurisdiction to hear the County's claims in the first instance as the County was first required to exhaust "its own administrative remedies."

The court rejected this argument at first, denying partial summary judgment. But on the first day scheduled for bench trial, the counter-defendants (including Roy's Trailer Park) again moved to dismiss the counterclaims on these same grounds. They argued that the County was required to use local administrative process to enforce the fire code and could not do so by injunction, seek a declaration as to the meaning of 723.024 (as Roy's Trailer Park had), or appoint a receiver. The County argued that it had not surrendered any rights existing elsewhere in state law by adopting local administrative procedures.

This time, the court agreed with the counter-defendants. It concluded that the administrative exhaustion doctrine applies to any claim "cognizable in the first instance by an administrative agency" and that it was therefore without subject matter jurisdiction, dismissing the counterclaims. Roy's Trailer Park then voluntarily dismissed its own original claim seeking a declaration as to the meaning of section 723.024. Consequently, the court dismissed the entire action. The County moved for rehearing, which motion was denied, and this appeal timely followed.

STANDARD OF REVIEW

"A trial court's order granting a motion to dismiss is reviewed de novo." Grove Isle Ass'n, Inc. v. Grove Isle Assocs., LLLP, 137 So. 3d 1081, 1089 (Fla. 3d DCA 2014).

ANALYSIS

"Although often couched in jurisdictional terms, 'the doctrine requiring the exhaustion of administrative remedies is not jurisdictional. . . . [It] is a court-created prudential doctrine . . . a matter of policy, not of power.'" State Dep't of Env't Prot. v. PZ Constr. Co., 633 So. 2d 76, 78 n.3 (Fla. 3d DCA 1994) (quoting State, Dep't of Revenue v. Brock, 576 So. 2d 848, 850 (Fla. 1st DCA 1991)); accord Henry v. Santana, 62 So. 3d 1122, 1127 (Fla. 2011). Here, the question isn't whether a circuit court possesses jurisdiction to hear these types of claims. It does. The question is whether the statute triggers an administrative exhaustion requirement before the County can pursue its claim in court. It does not.

Administrative exhaustion "applies where a claim is cognizable in the first instance by an administrative agency **alone**." Flo-Sun, Inc. v. Kirk, 783 So. 2d 1029, 1037 n.5 (Fla. 2001) (emphasis added) (quoting United States v. W. Pac. R.R. Co., 352 U.S. 59, 63 (1956)). The County could have pursued its counterclaims under a local process adopted by Monroe County Code §

8-2. But state law explicitly provides that such claims are cognizable elsewhere, too. Every county in Florida has the power to provide "fire protection, including the enforcement of the Florida Fire Prevention Code," by Florida statute. § 125.01(1)(d), Fla. Stat.

Chapter 162, Florida Statutes, establishes that the local code enforcement procedures it authorizes, such as Monroe County Code § 8-2, are intended as "an **additional or supplemental** means of obtaining compliance . . . . [and that] nothing . . . shall prohibit a local governing body from enforcing its codes by **any other means**." § 162.13, Fla. Stat. (emphasis added). And a local ordinance "cannot forbid what the legislature has expressly licensed, authorized or required." Rinzler v. Carson, 262 So. 2d 661, 668 (Fla. 1972). The County repeats this understanding that the local procedure for code compliance is in addition to, and not in lieu of, any other remedy available. Specifically, Monroe County Code § 8-36, entitled "[c]ode compliance by other means," sets forth that "[n]othing in this chapter shall be construed to preempt or prohibit the county from enforcing its codes by any other lawfully available means."

This court noted in a similar context that Chapter 162, Florida Statutes, "lends itself to a single, readily ascertainable construction. A local government is permitted to enforce its ordinances through means other than

code enforcement boards . . . . For instance . . . by way of civil action . . . ." City of Miami Beach v. Nichols, 314 So. 3d 313, 317 (Fla. 3d DCA 2020). Additionally, a circuit court has jurisdiction to enforce ordinances by injunction. See Sirgany Int'l, Inc. v. Miami-Dade County, 887 So. 2d 381, 383 (Fla. 3d DCA 2004) ("[T]he circuit courts have been assigned jurisdiction to issue all injunctions . . . includ[ing] those enforcing ordinances."); Metro. Dade Cnty. v. O'Brien, 660 So. 2d 364, 365 (Fla. 3d DCA 1995) ("[T]he O'Briens began a business without complying with the county code . . . and continue to violate county ordinances. Under these extreme circumstances, the trial court abused its discretion because the government has a clear legal right. . . . [T]his matter is remanded for entry of a temporary injunction."). It also has broad jurisdiction to "render declaratory judgments on the existence, or nonexistence . . . [o]f **any** immunity, power, privilege, or right" or any "fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend." § 86.011, Fla. Stat. (emphasis added). A declaratory action must allege a bona fide dispute as to some "right, status, immunity, power or privilege, or . . . fact . . . [and] a bona fide, actual, present need for the declaration." Romo v. Amedex Ins. Co., 930 So. 2d 643, 648 (Fla. 3rd DCA 2006) (quotation omitted). That was the case

here, as the parties had filed two directly conflicting claims for declaratory relief over the meaning of section 723.024.

The cases Roy's Trailer Park relies on require administrative exhaustion when challenging executive action. But they don't require the government to go through its own administrative scheme before exercising an otherwise available judicial remedy. And this makes sense not only considering the statutory scheme referenced above, but also the purpose of the exhaustion doctrine:

> [T]o assure that an agency responsible for implementing a statutory scheme has a full **opportunity** to reach a sensitive, mature, and considered decision upon a complete record appropriate to the issue[,] . . . . allow[] the agency to employ its **discretion** and expertise, and help[] **preserve executive and administrative autonomy**.

PZ Constr. Co., 633 So. 2d 76, 79 (Fla. 3d DCA 1994) (emphasis added) (quoting Brock, 576 So. 2d at 850). "Exhaustion of administrative remedies should be required only when it promotes the purposes of the doctrine," which is "often viewed as protecting the executive branch from unwarranted judicial interference." Pretzer v. Swearingen, 394 So. 3d 175, 186, 188 (Fla. 1st DCA 2024).

The court below cited Palm Lake Partners II, LLC. v. C & C Powerline, Inc., 38 So. 3d 844, 853 (Fla. 1st DCA 2010), for the principle that exhaustion "applies to municipal governmental agencies." But the full quote is that

exhaustion "applies to municipal governmental agencies no less than it applies to state administrative agencies subject to the Administrative Procedure Act." Id. This doesn't mean that a municipal agency must submit to and exhaust its own administrative procedures; it means that administrative exhaustion applies to claims against municipal agencies "no less than" it would against state agencies. So the First District applied the doctrine to the claims of private individuals whose zoning questions it held "should first be addressed to the City" (i.e., the "municipal governmental agenc[y]" to which it referred). Id. at 852–53.

None of the other cases relied on support the proposition that administrative exhaustion means that the government gives up its right to enforce a violation through alternative, lawful means. See, e.g., DeCarlo v. Town of West Miami, 49 So. 2d 596 (Fla. 1950) (requiring administrative exhaustion in the context of a private claim against city); Cmtys. Fin. Corp. v. Fla. Dep't of Env't Regul., 416 So. 2d 813 (Fla. 1st DCA 1982) (requiring administrative exhaustion in the context of a corporate claim against state agency); Browne v. City of Miami, 948 So. 2d 792 (Fla. 3d DCA 2006) (requiring administrative exhaustion in the context of a whistleblower against city, but estopping the city from raising the defense); City of DeLand v. Lowe,

544 So. 2d 1165 (Fla. 5th DCA 1989) (requiring administrative exhaustion in the context of a private claim against city).

CONCLUSION

Because the trial court erred in concluding that it lacked jurisdiction over the counterclaims and that the County was required to exhaust administrative remedies before seeking relief in court, we reverse and remand for proceedings consistent with this opinion.

Reversed and remanded.