

**Palmer v. HMG Venture Partner, LLC**

Court of Appeal of Florida, Fifth District

May 7, 2021, Decision Filed

Case No. 5D20-956

**Reporter**

2021 Fla. App. LEXIS 6550 \*; 46 Fla. L. Weekly D 1055; 2021 WL 1827164

JAMES R. PALMER, Appellant, v. HMG  
VENTURE PARTNER, LLC, MMA REALTY  
CAPITAL, LLC, LISA J. PALMER, CONNIE JO  
PAYNE, THOMAS A. STEFANOS, AND  
PATRIOT I REAL ESTATE TRUST, Appellees.

Marie A. Borland, Gregory P. Brown and Shane T.  
Costello, of Hill, Ward & Henderson, P.A., Tampa,  
for Appellee, HMG Venture Partners, LLC.

No Appearance for other Appellees.

**Notice:** NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED  
DECISION WITHOUT PUBLISHED OPINION

**Judges:** EDWARDS and NARDELLA, JJ., concur  
COHEN, J., concurs specially, with opinion.

**Prior History:** [\*1] Appeal from the Circuit Court  
for Orange County, John E. Jordan, Judge.

**Opinion**

PER CURIAM.

AFFIRMED.

EDWARDS and NARDELLA, JJ., concur

COHEN, J., concurs specially, with opinion.

**Concur by:** COHEN

**Core Terms**

bid, evidentiary hearing, inadequacy of price,  
foreclosure sale, irregularity, allegations,  
certificate, misconduct, vacate

**Concur**

COHEN, J., concurring specially.

**Counsel:** Barry Rigby, of Law Offices of Barry  
Rigby, P.A., Orlando, for Appellant.

In this foreclosure case, James Palmer appeals the

trial court's order granting in part and denying in part his motion to vacate foreclosure sale, vacate certificate of sale and certificate of title and objection to amount bid. On appeal, Palmer argues that the trial court abused its discretion in failing to grant an evidentiary hearing on his timely objection to the bid amount pursuant to [section 45.031\(8\), Florida Statutes](#) (2019).<sup>1</sup>

As a general proposition, mere inadequacy of price standing alone is not a basis for setting aside a judicial sale. [U.S. Bank Nat'l Ass'n v. Bjeljac, 43 So. 3d 851, 852-53 \(Fla. 5th DCA 2010\)](#). As noted in *Bjeljac*, "when the inadequacy of price is gross and results from any mistake, accident, surprise, fraud, misconduct or irregularity upon the part [\*2] of either the purchaser or other person connected with the sale, with resulting injustice to the complaining party, equity will act to prevent the wrong result." *Id.*

The affidavit challenging the amount of the bid failed to allege any facts (or for that matter, even conclusory allegations) as to any of the factors set out in *Bjeljac*. The only allegation within the affidavit was that of mistake in the failure to attend the foreclosure sale. There were no allegations of any fraud, misconduct or irregularity relating to the successful bid. The affidavit was wholly inadequate to necessitate an evidentiary hearing.