

**IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT,
IN AND FOR MIAMI DADE COUNTY, FLORIDA**

CARMEN MEDINA AND
FRANCISCO MEDINA
Plaintiff,

CASE NO:

vs.

TOMAS REGALADO, as Property Appraiser
Of Miami-Dade County, Florida; DARIEL
FERNANDEZ, as Tax Collector of Miami-Dade
County, Florida; and JIM ZINGALE, as Executive
Director of the Florida Department of Revenue.
Defendants

COMPLAINT FOR DECLARATORY AND SUPPLEMENTAL RELIEF

COME NOW, Plaintiffs, CARMEN MEDINA AND FRANCISCO MEDINA (collectively referred to herein as the "Plaintiffs"), by and through their undersigned attorneys, and file this cause of action against the Defendants, TOMAS REGALADO, as Property Appraiser of Miami-Dade County, Florida ("APPRAISER"); DARIEL FERNANDEZ, as Tax Collector of Miami-Dade County, Florida ("COLLECTOR"), and JIM ZINGALE, as Executive Director of the Florida Department of Revenue ("REVENUE") (collectively referred to herein as the "Defendants"), and states as follows:

JURISDICTION, PARTIES AND VENUE

1. This is an action for declaratory judgment and supplemental relief, in which Plaintiffs seek cancellation of a deed to a certain real property located in Miami-Dade County, Florida, and to retroactively reinstate homestead exemption and assessed value to same.

2. This Court has jurisdiction pursuant to Article V, sections 5(b) and 20(c)(3) of the Florida Constitution, and section 68.01, 86.011, and 194.171, Florida Statutes.

3. CARMEN MEDINA is over 18 years of age and is otherwise sui juris.

4. FRANCISCO MEDINA is over 18 years of age and is otherwise sui juris.

5. Plaintiffs reside in the subject property located at 9831 SW 47 Street, Miami, FL 33165 (the "Property"), further described as:

Lot 9, Block 19, of TROPICAL ESTATES, according to the Plat thereof, as recorded in Plat Book 50, Page 98, of the Public Records of Miami-Dade County, Florida.

6. Plaintiffs are the owners of the Property by virtue of a Warranty Deed dated November 1, 2005, recorded on November 22, 2005, in OR Book 23982, Pages 25-26, of the Public Records of Miami Dade County, Florida. (the "Warranty Deed"). A copy of said Warranty Deed is attached hereto and incorporated herein as **Exhibit A**.

7. Venue is appropriate in Miami-Dade County, Florida because the subject property *in situ* is located in Miami, Florida.

8. APPRAISER is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

9. COLLECTOR is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

10. REVENUE is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(5), Florida Statutes.

11. Plaintiffs are uncertain of their rights under Chapter 193, 194, and 196, Florida Statutes, and seek judicial determination thereof. Without such a declaration, Plaintiffs will be deprived of the homestead exemption and assessed valuation to which they are entitled to.

BACKGROUND FACTS

12. Plaintiffs are the uninterrupted, continuous residents and owners of the Property, which is their primary and permanent residence, since 2005.

13. On or about April 2023, Plaintiffs intended to add their daughter Briselys Hernandez (“Hernandez”) to the title of the Property for estate purposes, while maintaining their homestead exemption and assessed valuation of the Property.

14. In order to do so, Plaintiffs sought the assistance of a non-lawyer to draft a Quit Claim Deed.

15. Said Quit Claim Deed is dated April 21, 2023, recorded on April 27, 2023, in OR Book 33682, Pages 3368 of Public Records of Miami-Dade County, Florida (the “Erroneous Deed”). A copy of said Erroneous Deed is attached hereto and incorporated herein as **Exhibit B**.

16. However, and unbeknownst to the Plaintiffs, the Erroneous Deed removed their name from the title of the Property, transferring their complete interest to Hernandez.

17. Not until Plaintiffs received the 2024 Ad-Valorem Tax and Non-Ad Valorem Assessment Notice removing their homestead exemption, increasing their real estate taxes, and reassessing the value of the Property, is that the error was discovered.

COUNT I: CANCELLATION OF THE ERRONEOUS DEED

18. Plaintiffs herein reallege and adopt each and every one of the allegations contained within paragraphs 1 through 17, as if restated herein.

19. There is in existence the Erroneous Deed to the Property that conveys interest in the Property from the Plaintiffs to Hernandez.

20. That at the times material hereto it was the intention of the Plaintiffs to add Hernandez to their title of the Property, rather than removing themselves from the title and transfer the Property in its entirety to her.

21. Accordingly, and the Erroneous Deed should be voided as it fails to reflect the intention of the parties.

22. Plaintiffs have never relinquished their interest or possession of the Property to Hernandez and still use the Property as their permanent and primary residence.

23. No other party may claim to have made any improvements to the Property or to have provided any consideration for any transfers.

WHEREFORE, Plaintiffs respectfully request a declarative judgment from the Court that the Erroneous Deed is void and for such other relief as the Court may deem just and proper, together with costs of these proceedings.

**COUNT II: DECLARATION AFFIRMING ENTITLEMENT
TO HOMESTEAD EXEMPTION**

24. Plaintiffs herein reallege and adopt each and every one of the allegations contained within paragraphs 1 through 17, as if restated herein.

25. This is an action pursuant to section 86.011, Florida Statutes, and other relevant laws, for a declaration affirming Plaintiffs' entitlement under section 196.031, Florida Statutes, and any other relevant laws, to receive the homestead exemption benefit for the 2024 tax year, which the APPRAISER has revoked.

26. Plaintiffs have performed all conditions precedent to bring this action, including but not limited to making payment in-full to the COLLECTOR for the amount of real estate taxes assessed in 2024.

27. Plaintiffs have occupied the Property as their primary and permanent residence since 2005, and have not, at any time, interrupted or abandoned said residency.

28. But for the evident mistake in the Erroneous Deed, Plaintiffs would have not lost their homestead exemption benefit and assessed valuation for the Property.

29. Plaintiffs and Defendants disagree over whether the Plaintiffs were entitled to homestead exemption for the 2024 tax year.

30. As a result, the APPRAISER has revoked the same, resulting in an increase to real estate property taxes and assessed value of the Property.

WHEREFORE, Plaintiffs respectfully request that this Court issues a declaratory judgment:

- (a) Affirming that the homestead exemption benefit for the 2024 tax year which was erroneously revoked;
- (b) Awarding Plaintiffs their costs incurred in bringing this action pursuant to section 194.192, Florida Statutes; and
- (c) awarding other relief as this Court deems just and equitable.

**COUNT III: REINSTATEMENT OF HOMESTEAD EXEMPTION
AND ASSESSED VALUATION**

31. Plaintiffs herein reallege and adopt each and every one of the allegations contained within paragraphs 1 through 17, as if restated herein.

32. This is an action pursuant to section 86.011, Florida Statutes, and other relevant laws, for supplemental relief and to reinstate the homestead exemption for the 2024 and subsequent tax years.

33. Plaintiffs have performed all conditions precedent to bring this action, including but not limited to making payment in-full to the COLLECTOR for the amount of real estate taxes assessed in 2024.

34. Due to an error in the Erroneous Deed, the APPRAISER revoked Plaintiffs' homestead exemption of the Property.

35. However, Plaintiffs never intended to convey the Property to Hernandez, but to add her to the title for estate purposes.

36. But for the evident mistake in the Erroneous Deed, Plaintiffs would have not lost their homestead exemption benefit and assessed valuation for the Property.

37. Plaintiffs are entitled under section 196.031, Florida Statutes, to the homestead exemption.

WHEREFORE, Plaintiffs respectfully requests that this Court issues judgment for supplemental relief:

- (a) Ordering the APPRAISER to reinstate the homestead exemption for the 2024 and subsequent tax years, and resetting the assessed valuation of the Property to that before the erroneous conveyance;
- (b) Awarding Plaintiffs their costs incurred in bringing this action pursuant to section 194.192, Florida Statutes; and
- (c) Awarding other relief as this Court deems just and equitable.

Respectfully Submitted,

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