

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC04-210

L.T. NO 3D02-1707

ROTEMI REALTY, INC. ET AL.

Petitioners,

v.

ACT REALTY CO.,

Respondent.

On Discretionary Review from the District Court of Appeal of Florida, Third District

PETITIONER'S REPLY BRIEF ON THE MERITS

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ARGUMENT

Respondent asserts that this Court should take jurisdiction of the issues presented in the Third District Court of Appeal concerning whether or not the brokers in the case were actually the procuring cause of the subject sale. In support of this position, Respondent cites to this Court's decision in Kennedy v. Kennedy, 303 So.2d 629 (Fla. 1974), in which this Court expressly noted an ability to resolve "all contested issues" between the parties when conflict jurisdiction was accepted.

However, as matter of procedural jurisprudence, this Court has recently circumscribed this authority, and refused to accept jurisdiction of issues extraneous to the conflict jurisdiction of the Court. *See* Hale v. State, 2004 WL 2973859, *1, n.1 (Fla. 2004); Barlow v. North Okaloosa Med. Ctr., 877 So.2d 655, 657 n.3 (Fla. 2004); St. Joe Corp. v. McIver, 875 So.2d 375, 382-83 (Fla. 2004). This Court should refuse to exercise any jurisdiction outside of deciding whether the brokerage agreement at issue in this matter was a legal binding agreement, and whether the Third District Court of Appeal properly raised the illegality issue by operation of the *sua sponte* motion. The foregoing is the limit of this Court's conflict jurisdiction according to the briefs filed by the parties.

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Certificate of Service

I hereby certify that a copy of the foregoing was sent via U.S. mail to the following on this _____ day of January 2005:

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Certificate of Compliance

The undersigned hereby certifies that this Brief is in compliance with Florida Rule of Appellate Procedure 9.210.

Sheldon R. Rosenthal, Esq.