FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D22-2690

STOREY MOUNTAIN, LLC a/a/o
IBERIABANK,

Appellant,

v.

FREESTONE ENTERPRISE, LLC, a
Florida limited liability
company, JAMES C. SPRINGER,
ONNO H. HORN, and
CHRISTOPHER F. MARKHAM,

Appellees.

On appeal from the Circuit Court for Walton County.
David W. Green, Judge.

June 21, 2023

LONG, J.

Storey Mountain claims it is entitled to the appointment of an equitable receivership on a simple showing that it holds an unsatisfied writ of execution. The trial court ruled it was wrong, and we agree. Storey Mountain must show a need for the appointment of a receiver under the circumstances. It made no showing at all and instead relied only on legal argument. The trial court therefore did not abuse its discretion in denying the motion to appoint a receiver. *See Colley v. First Fed. Sav. & Loan Ass'n.*

of Panama City, 516 So. 2d 344, 345 (Fla. 1st DCA 1987); *see also Lehman v. Tr. Co. of Am.*, 49 So. 502, 503 (Fla. 1909) (noting limited scope of equitable receivership, to be granted in the court's sound discretion "according to the circumstances and exigencies of each particular case"); *Carolina Portland Cement Co. v. Baumgartner*, 128 So. 241, 247 (Fla. 1930) (noting that an equitable receivership is "not a matter of right" but rather an inherent equitable power of the trial court); *McAllister Hotel v. Schatzberg*, 40 So. 2d 201, 202–03 (Fla. 1949) (noting that the power to appoint a receiver should not be exercised just because it would "do no harm" and instead requiring caution in deciding whether to appoint equitable receiver, because the power of such an appointment "is a delicate one" that "should be exercised only in those cases where the exigencies demand it and no other protection to the applicants can be devised").

This conclusion is not inconsistent with *Warshall v. Price*, 617 So. 2d 751 (Fla. 4th DCA 1993), the case on which Storey Mountain relies. The different opinions in *Warshall* make clear that the court was evaluating the need for a receivership under the unique circumstances of that case. The defendant there "carrie[d] on business as a sole proprietorship," and the plaintiff "had unsuccessfully attempted execution on judgments." That receivership was also limited to the collection of "judgment debt out of monies being paid to the debtor and from accounts payable." But we know nothing about the circumstances which led to *this* proceeding and Storey Mountain seeks a receiver over James Springer as an individual, not his business monies.

U.S. Bank Nat'l. Ass'n v. Cramer, 113 So. 3d 1020 (Fla. 2d DCA 2013), the one Florida case which cites *Warshall*, came to the same conclusion we do today. "[T]he considerations dictating a cautious approach to the appointment of a receiver may carry less weight" after the entry of final judgment, but nevertheless, "there must still be some need to protect the property" before the court can appoint a receiver in equity. *Id.* at 1023–24 (citing *Warshall*, 617 So. 2d at 752).

AFFIRMED.

ROBERTS and TANENBAUM, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Christopher Zacarias of the Law Office of Christopher F. Zacarias, P.A., Miami, for Appellant.

E. Dylan Rivers of Ausley & McMullen, Tallahassee, for Appellees.