

LEXSEE 675 SO.2D 1048

**ALLAN A. KOZICH, d/b/a ALLAN A. KOZICH & ASSOCIATES,
Appellant/cross-appellee, v. JAMES E. CUSICK, Individually, and
POWERLINE CHEMICAL & JANITOR SUPPLY, INC., a Florida
corporation, Appellees/cross-appellants.**

CASE No. 95-3071

COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

675 So. 2d 1048; 1996 Fla. App. LEXIS 6928; 21 Fla. L. Weekly D 1563

July 3, 1996, Filed

SUBSEQUENT HISTORY: [**1]
Released for Publication July 19, 1996.

PRIOR HISTORY: Appeal and cross-appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Leonard L. Stafford, Judge. L.T. Case No. 92-005275 02.

DISPOSITION: Final judgment affirmed.

COUNSEL: Robert N. Fryer, Jr. of Robert N. Fryer, Jr., P.A., Tamarac, for appellant/cross-appellee.

Matthew S. Nugent, West Palm Beach, for appellees/cross-appellants.

JUDGES: STONE, SHAHOOD, JJ., and RAMIREZ, JUAN, JR., Associate Judge, concur.

OPINION

[*1049] PER CURIAM.

We affirm the final judgment, including that portion dismissing Appellant's statutory mechanic's lien count for failure to join the owner of the lien property. As to that count, Appellant sought to foreclose a lien on the fee interest joining only a tenant, the contracting party, notwithstanding that the count was posed against the interest of the owner. Appellant did not seek to impose a lien upon the tenant's leasehold interest by the count in question. Where the owner's property securing a lien is in jeopardy, the owner is a necessary and proper party to the foreclosure. *See McGuire v. Consolidated Elec. Supply, Inc.*, 329 So. 2d 411 (Fla. [**2] 4th DCA 1976); *Diversified Mortgage Investors v. Benjamin*, 345 So. 2d 392 (Fla. 3d DCA 1977); *North Dade Plumbing, Inc. v. La Salle Bldg. Corp.*, 114 So. 2d 707 (Fla. 3d DCA 1959).

STONE, SHAHOOD, JJ., and RAMIREZ, JUAN, JR., Associate Judge, concur.