Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed February 10, 2010.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-504
Lower Tribunal No. 08-7264

Angel Perez, et al.,
Appellant,

vs.

Deutsche Bank Trust Co., etc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Scott J. Silverman, Judge.

John H. Ruiz, for appellant.

David J. Stern and Karina M. Musela (Plantation), for appellee.

Before WELLS and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

SHEPHERD, J.

This is an appeal from a final summary judgment of foreclosure obtained by Deutsche Bank Trust Company Americas as Trustee,[1] against Angel and Maria Perez. Because the Bank has failed to demonstrate that there is no genuine issue as to any material of fact, and that the moving party is entitled to a judgment as a matter of law, we reverse this case for further proceedings.

[1] Deutsche Bank was precluded from participating at oral argument in this case for failure to timely file an answer brief.