

# Third District Court of Appeal

State of Florida

Opinion filed May 28, 2014.

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No. 3D13-1470  
Lower Tribunal No. 11-37387

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**Rocketrider Pictures, LLC,**  
Appellant,

vs.

**BankUnited, et al.,**  
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Diane Ward,  
Judge.

Arnaldo Velez, P.A., and Arnaldo Velez, for appellant.

John L. Penson, P.A., and John L. Penson, for appellees.

Before WELLS, LAGOA, and LOGUE, JJ.

ON CONFESSION OF ERROR

LOGUE, J.

Rocketrider Pictures, LLC appeals a trial court order that confirmed a foreclosure sale and denied the foreclosure defendant's objection to the sale, to which objection Rocketrider had joined as a third party. Rocketrider asserts that the trial court erred in refusing to vacate the judicial sale where the property subject to the sale was owned by a husband and wife as tenants by the entirety, and the foreclosure was entered against the wife but not against the husband. On appellee's commendable confession of error, we agree.

The trial court erred in denying Rocketrider's objection to the judicial sale. Because only the wife's interest in the property was foreclosed, nothing passed by the judicial sale to Rocketrider. Balding v. Fleisher, 279 So. 2d 883, 884 (Fla. 3d DCA 1973) ("[A]n estate by the entirety . . . [is] not capable of being the object of satisfaction for the debt of one of the tenants alone. Thus, the interest of the judgment debtor could not pass by the sale."). Moreover, the notice of judicial sale inaccurately indicated the entire property was for sale.

Accordingly, we reverse the final judgment of foreclosure and reverse the trial court's May 20, 2013 order denying the objections to the judicial sale and confirming sale. We remand with directions to the trial court to cancel the certificate of title issued to Rocketrider, and direct the clerk of court to return Rocketrider's bid monies.

Reversed and remanded, with instructions.