

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 28 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DEUTSCHE BANK NATIONAL TRUST
COMPANY, trustee of Securitized Asset
Backed Receivables LLC Trust 2007-NC2
Mortgage-Pass Through Certificates, Series
2007-NC2,

Plaintiff-Appellant,

v.

KENNETH MCLEOD; CAROL MCLEOD,
Husband and Wife; CIRCLE G AT RIGG'S
HOMESTEAD RANCH HOMEOWNERS
ASSOCIATION; UNKNOWN PARTIES,

Defendants-Appellees.

No. 14-17527

D.C. No. 2:14-cv-01720-NVW

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submission Deferred November 15, 2016
Resubmitted June 28, 2017**
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: LUCERO,*** GRABER, and HURWITZ, Circuit Judges.

Deutsche Bank National Trust Co. initiated judicial foreclosure proceedings against Kenneth and Carol McLeod after they defaulted on a \$771,000 home loan. Because the McLeods had obtained a default judgment against Deutsche Bank in separate state court proceedings, the district court dismissed Deutsche Bank's complaint as barred by res judicata and the *Rooker-Feldman* doctrine "without prejudice to seeking relief from the Default Judgment from the state court."

The Arizona Court of Appeals has now concluded that the default judgment was void *ab initio*. *McLeod v. Deutsche Bank Nat'l Tr. Co.*, No. 1 CA-CV 15-0504, 2017 WL 2189498, at *4-5 ¶¶ 20-21, 26 (Ariz. Ct. App. May 18, 2017) (unpublished). We therefore vacate the district court's judgment and remand for further proceedings in light of the decision of the state court.

Each party is to bear its own costs on appeal.

VACATED AND REMANDED.

*** The Honorable Carlos F. Lucero, United States Circuit Judge for the U.S. Court of Appeals for the Tenth Circuit, sitting by designation.